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## Legislative Committee on Bill C-32

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EVIDENCE

**Thursday, March 3, 2011**

—  
**Chair**

**Mr. Gordon Brown**



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•(1105)

[Translation]

**The Acting Chair (Hon. Maxime Bernier (Beauce, CPC)):**  
Good morning, everyone.

Thank you for the trust you've placed in me. I am your Chair for this meeting. It's only temporary; I'll be returning to my position as a committee member next week.

That said, we will now begin the 16th meeting of the Legislative Committee on Bill C-32. In the first hour, from 11:00 a.m. until noon, we will be hearing from the following people.

[English]

From the British Columbia Association of Broadcasters, we have Mr. Brad Phillips, the president; he's also vice-president of British Columbia operations, Astral Radio.

[Translation]

From the Canadian Association of Broadcasters, we have with us the chair, Ms. Sylvie Courtemanche, and Mr. Gabriel Van Loon, lawyer.

[English]

From Newcap Radio, we have Mike Keller, vice-president, industry affairs.

I will give you all together 15 minutes, and after that the members will be able to ask you questions.

You have the floor.

**Ms. Sylvie Courtemanche (Chair, Canadian Association of Broadcasters):** Thank you for inviting us to appear before this committee to talk about this important piece of legislation.

I am here as chair of the Canadian Association of Broadcasters, an association that represents over 600 private radio stations across the country. We also represent the vast majority of television services in Canada. I am also vice-president, government relations, of Corus Entertainment Inc., one of Canada's leading media companies and Canadian content producers.

Copyright reform is necessary and urgent. Private broadcasters support Bill C-32. We believe this bill demonstrates a great effort on the part of the government to arrive at a balanced solution that provides something for everyone. We strongly support passage of this important piece of legislation.

Bill C-32 contains important clarifications of the broadcast incidental reproduction provision that recognize the unfair and

unsustainable burden borne by broadcasters. We'd like to take this opportunity to explain to you why it is essential that this provision remain in the bill.

The proposed amendments to section 30.9 of the Copyright Act provide broadcasters with the right to operate their businesses in the digital economy without unfair and irrational duplication of their copyright liability. Some of you may remember that this exception was introduced in 1997 in the last Bill C-32. The very same collectives that have appeared before this committee appeared then and told the heritage committee:

Music publishers recognize that such copying [meaning radio's transfers of format] is integral to the operation of radio stations, and also realize that any publisher foolish enough to demand payment for such copying would likely find himself frozen out of the station's playlist in short order.

On this basis, an amendment to the ephemeral exception provision that effectively nullified the exception for broadcasters was introduced. Starting in 2001, the same collective who told the heritage committee it would be foolish to seek payment for incidental reproductions took advantage of the new statutory framework and sought and was granted a tariff payable by radio.

Today, radio is still paying that tariff to the music publishers, but at a higher rate. And radio is also paying two additional reproduction tariffs: one to the multibillion-dollar foreign record companies; and one of a much smaller amount, less than \$200,000, to actual performers. This brings the total liability for something that all parties agreed should never be compensated to \$21 million a year. We have heard many incorrect statements relating to the \$21 million that the reproduction right is currently worth, but one truth is unequivocal: broadcasters make no money from the act of reproducing music content for the purposes of facilitating the broadcast of music.

We've heard members of this committee say that the \$21 million would be carved out of income of artists. That is simply not accurate. We'd now like to explain to you how that \$21 million actually breaks down.

[Translation]

It is important to understand how this \$21 million is filtered through a complex collective licensing system that deducts large amounts for the overhead and legal costs of the collective society administering the tariff and for distribution to foreign record labels and publishing houses, before any of it ends up with the artists themselves.

Of the total \$21 million, approximately \$10 million goes to the multibillion-dollar foreign record labels. An estimated \$1.1 million is deducted for overhead and administrative costs for the five collectives involved. Approximately \$6.4 million goes to foreign rights holders, which leaves \$3.5 million to be shared among the publishing houses, which are not necessarily Canadian, and the artists. We've provided the breakdown of this amount in our brief.

While the record companies and the publishing houses will tell you that the broadcaster exemption takes money away from artists, the truth is that it will take money away from multibillion-dollar foreign companies. In fact, the broadcaster exemption will make it possible to keep the money in the hands of 100% Canadian companies that invest substantially in their communities and in Canadian artists.

We want to emphasize that broadcasters are not opposed to paying for the communication right.

[English]

Private broadcasters were very pleased to see the inclusion of amendments to section 30.9 in Bill C-32. We were further pleased by the government's explanation that the intention of this amendment was to ensure that radio broadcasters would no longer be required to compensate copyright owners for making reproductions in the context of their operations. However, we believe the current drafting may not fully reflect the intent to provide a full exception to the reproduction right liability.

Our suggested amendments are highly technical in nature and designed to promote technological neutrality, minimize confusion, and ensure consistency with the rest of the provision as well as the Copyright Act as a whole. We will undertake to provide our proposed amendments to the entire committee.

The broadcaster exception is necessary. It will bring Canada in line with our international trading partners. Canada is one of a small minority of industrialized countries that still does not have a broadcaster exception. It will recognize the truly technical nature of the in-station reproductions.

Thank you for the opportunity to appear before you today.

I'll now leave my friends from Astral and Newcap to explain how broadcasters contribute to their local communities and help Canadian artists.

• (1110)

**Mr. Brad Phillips (President, Vice-President of British Columbia Operations, Astral Radio, British Columbia Association of Broadcasters):** Thank you, Sylvie.

My name is Brad Phillips. I'm responsible for the 22 Astral radio stations in British Columbia, and manager of the Vancouver cluster of stations, Virgin Radio and AM 650.

I've been privileged to work in the Canadian broadcasting industry for over 30 years in both radio and television. Before Astral, I was regional vice-president for CHUM Television. Most of my career has been spent in the radio business. I'm proud to say that I have managed or programmed the number one station in Canada's two largest markets, Vancouver and Toronto. I've worked in large and

small markets in four provinces for AM and FM stations in a variety of formats. I've been a CMW program director of the year. Earlier in my career I was a finalist for *Billboard* magazine's on-air personality of the year. I'm in my eighth year on the board of the British Columbia Association of Broadcasters.

Local radio is the strongest marketing tool for Canadian artists and music. This role needs to be recognized by government and the Canadian music industry. I am here today as the president of the British Columbia Association of Broadcasters. We have a combined audience of close to 4.5 million listeners and a presence in every community, large or small, across our beautiful province. In a number of those markets, we are the only local media.

I am also here on behalf of my company, Astral, the largest radio broadcaster in Canada with 83 stations in 46 communities throughout Canada, serving a total of 14.6 million listeners. Our 2,000 employees are a vital part of the communities they serve, through hundreds of year-round fundraising activities for local charities, coverage and promotion of local events and stories, and dedication of countless hours and energy required to bring people together for a common cause.

Tens of millions of dollars are raised for local charities by private broadcasters every year. An example is Astral's National Day of Caring for Kids Radiothon, through which, for two years in a row, Astral listeners have raised over \$7 million for Children's Miracle Network and several of Astral's own children's charities. In Vancouver, my stations broadcast from the lobby of BC Children's Hospital.

On our Vancouver station, we have a program called *The Best of BC*, which is a cornerstone initiative showcasing new local unsigned artists. Each month we feature a new artist airing for the first time on radio. Each new artist is given on-air exposure with 70 spins aired during the month. Each artist is also featured for one month on our *Best of BC* web page.

Approximately 60 artists have been supported by the *Best of BC* feature. Some artists we have supported have gone on to major success. For example, Andrew Allen gained national radio airplay with two singles and signed to Epic Records. The Envy signed to Simmons Records, Gene Simmons' label, and played shows in Los Angeles with Eminem and KISS. Tara Holloway signed to 604 Records. Hannah Georgas played multiple Lilith Fair dates with Sarah McLachlan and signed with EMI.

In addition to these direct contributions to our local artists and local communities, private radio plays a significant role in the national cultural economy. As an industry, we employ over 10,500 Canadians. We raise countless millions of dollars for local and national charities and fundraisers per year, investing both human and financial resources in our communities. Private radio broadcasters spent \$64 million on copyright royalties last year, in addition to the \$21 million paid for the reproduction right. Those royalties are set as a function of our income, so as we continue to grow, so do the royalties paid out to the copyright collectives. We also invested \$51 million in Canadian content development last year. That's money that goes directly to artists to help fund production and promotion of their music.

Mike Keller from Newcap Radio is going to tell you more about our CCD contributions.

Thank you.

**Mr. Mike Keller (Vice-President, Industry Affairs, Newcap Radio Inc.):** Thank you, Brad.

My name is Mike Keller. I'm vice-president of industry affairs at Newcap Broadcasting. I've been working in the broadcasting industry, in both television and radio, for my entire career, starting in 1971, at MCTV in northern Ontario, then at Baton Broadcasting, CHUM, and now Newcap Broadcasting.

I'm currently on the board of directors of the Canadian Association of Broadcasters, and I've held positions on the boards of the Bureau of Broadcast Measurement, the Television Bureau of Canada, and the Radio Marketing Bureau.

Newcap is an Atlantic Canada success story. It now has the second largest complement of radio stations in Canada—75—serving 56 communities, from large cities, such as Ottawa, Edmonton, and Calgary, to tiny villages, such as Springdale, Newfoundland, and Blairmore, Alberta. Over 800 employees come to work at Newcap each day and make their communities better places to live. We are the largest radio operator in Atlantic Canada and the Maritimes.

As has been noted, I'm going to further illustrate the depth of contribution that Canadian broadcasters make to the music community in Canada. Broadcasters provide publicity and direct cash investments for musicians. This is done across the industry through such programs as the Big Money Shot in our Ottawa station, Live 88.5, which invests \$500,000 worth of grants in Ottawa area artists every year. Through this program, Newcap Radio has already added 10 artists in full rotation and 100 artists in feature spins on its radio stations, putting unsigned Canadian artists on air alongside the world's most popular musicians.

We also have a program called Rock Star, in Calgary, that provides \$500,000 in direct funding to local artists to help them tap into financial and management resources to bring their musical aspirations to the next level and beyond. The unique financial coaching, mentoring, networking, and on-air resources of these Newcap stations have enabled local musicians to realize their dreams of launching successful careers as Canadian recording artists.

Newcap is there every step of the way, from song writing to recording, album production, performance coaching, touring, marketing, and ultimately cross-Canada airplay, both in full rotation

and as feature spins that put these unsigned artists next to the world's best recording artists.

Over a 10-year period, Newcap alone has contributed over \$30 million in contributions to CCD, \$5.7 million to FACTOR, \$8.5 million to Starmaker, and another \$16 million to local artists and initiatives.

In just the last year, private broadcasters as a whole contributed \$51 million to CCD through programs like FACTOR, MusicAction, and the Radio Starmaker Fund. On top of these investments in local communities and artists, private radio broadcasters are also paying \$64 million, which is growing every year, in copyright royalties to authors, composers, publishers, performers, and makers of sound recordings for broadcast. This copyright payment will not be affected by Bill C-32.

It has been said that granting the broadcaster an exception will mean that broadcasters will get a free ride. We think that contributing over \$115 million to artists in a single year is hardly a free ride. We believe that we are doing an exceptional job in our support of Canadian artists. In reality, broadcasters are an essential catalyst for the success of artists. The broadcasting industry must remain healthy in order to continue to provide this tremendous level of support for Canadian artists.

Thank you for the opportunity to appear before you today. We are happy to answer any questions you might have.

•(1115)

[Translation]

**The Acting Chair (Hon. Maxime Bernier):** Thank you very much, Messrs. Keller, Phillips and Van Loon, as well as Ms. Courtemanche.

[English]

I will give the floor right now to Mr. McTeague for seven minutes.

[Translation]

**Hon. Dan McTeague (Pickering—Scarborough East, Lib.):** Thank you, Mr. Chairman.

[English]

Welcome to the committee, and thank you for your position. I think we're hearing a little more in terms of ads that a number of your members across the country are airing, which certainly have my attention.

Mr. Keller, what you've described in your comments here I think has more to do with what we refer to, in the vernacular, as "more industry support", the \$52 million. That really doesn't have anything to do with copyright, nor the legislation here, so I'll leave you aside for a moment and maybe ask my question of Madam Courtemanche.

Madam Courtemanche, your industry has evolved and has used new technologies that involve copying music onto broadcast servers, which provide them the opportunity to, among other things, reduce staff and space requirements, minimize losses from advertising insertion errors, produce better-quality programs, and improve productivity. We all understand that. In fact, the Copyright Board found last year that the new broadcasting technology means lower costs for radio stations and that “the reproduction technology has allowed stations to increase their efficiency and profitability”.

So when your website, which one is directed through the attack ads, particularly against my party for coming up with some rather innovative ideas to try to provide balance, claims that a server's copies yield “no revenue”, that's not the same as saying that they create no profit. In fact, broadcasters have earned record profits over the past several years. I think you'll acknowledge that, because the Copyright Board has done that for us. It is an industry of \$1.5 billion.

The CRTC has reported that the commercial radio stations' pre-tax profit margins increased from 8.93% in 2001 to 21.2%. Is that right?

• (1120)

**Ms. Sylvie Courtemanche:** I don't have the statistics with me today, but I always think that when one comes to an issue, one should look at it from a balanced point of view. You looked at it from one point of view. You said that radio stations achieved a bunch of efficiencies as a result of this technology change.

How about the efficiencies achieved by the music industry? The music industry used to have to hire an AR man, and they used to have to press CDs and physically take them to the radio station and say, “Will you play my music?”

As a result of these efficiency changes that have occurred, the music industry has had significant economic efficiencies, which nobody seems to care about. There should be a balance. Yes, we might have saved some money. I'll let Mike or Brad speak about the efficiencies and how much it would represent. But it's nowhere near the economic efficiencies that the music industry has as a result of having the ability to push music electronically to our servers....

Brad, can you give us an idea of—

**Hon. Dan McTeague:** Sorry, ma'am, I want to take exception to what you're saying. Your comments at the outset were that there was something for everyone in this bill. I happen to believe—and I think a lot of Canadians believe—that there's actually nothing for creators. We're talking about artists here.

Let me put something more focused for you to consider. In your ads, you're stating:

Local radio in Canada may be threatened if Bill C-32 is not passed as introduced by the Government. This much needed Bill may fail because the Liberal Party wants an amendment that would have local radio stations send money to big recording companies outside Canada.

You say that local radio may be threatened. I have to ask...and take exception, because the Copyright Board found last year that the typical small radio station, the kind that you're announcing, with revenues of \$120,000, would pay about \$4,600 in total copyright royalties, while medium-sized stations with revenues of \$1.1 million would pay \$44,500.

Isn't it true that about \$700 of the small stations' payments and \$9,200 of the medium stations' payments would be for the use of reproduction right?

**Ms. Sylvie Courtemanche:** First of all, when you say there's nothing in the act for creators, I do know—not that I want to get into everything that's good or bad in the act—that there are provisions for creators. It deals with the peer-to-peer file-sharing issue. It creates a making available right for creators. It enhances and clarifies rights for—

**Hon. Dan McTeague:** Madam Courtemanche, I only have a few minutes.

**Ms. Sylvie Courtemanche:** Agreed, but you made a point that—

**Hon. Dan McTeague:** My point is that you're crying poor and you're making a lot of money, and you're suggesting here that \$700 and \$9,200 is a difference between life and death for your radio stations.

**Ms. Sylvie Courtemanche:** I would like Mr. Phillips to have an opportunity to respond to your question on how difficult it is—

**Hon. Dan McTeague:** No, Madam Courtemanche, I'm referring to your testimony. It upsets me to no small extent to know that you're coming here suggesting to us that somehow you're not making any money. I've demonstrated that you're making more money than you have in a long time, and now you're prepared to take it out on the artists.

**Ms. Sylvie Courtemanche:** [*Inaudible—Editor*]...over 10 years, and our revenues have increased 40%.

If any business model that has copyright...that increased 100-fold more than what your revenue increases are, I don't know what needs to happen. There are radio stations that are closing in this country. Our particular group closed two stations, three AM stations, because the business model does not work anymore.

I will let Mr. Phillips speak, if you would, please, because he can tell you about some micro markets where this is very difficult.

**Mr. Brad Phillips:** There are markets that are served in British Columbia. I have access to talk to the managers on a regular basis in my capacity with British Columbia Association of Broadcasters, and some of those markets and some of those operators struggle. This money is important. These are broadcasters that are operating on the fringes of the coastline of British Columbia, serving the communities that they're in, the classic radio station set-up with the morning guy. He does the morning show. He puts on a tie and goes and sells advertising. It's that kind of an operation. They play the music that the community produces on their radio stations.

**Hon. Dan McTeague:** Are you closing those stations because of ephemeral rights, because of that small amount?

Are you telling us now that you're closing those stations, Madam Courtemanche, because of this?

**Mr. Brad Phillips:** What we're saying is that the increased payments, that have increased year over year, that are going out, are causing some of those operators to now look at their operations and go, "Can I afford to be in this business?"

**Ms. Sylvie Courtemanche:** There's no doubt about it: we have some significant burdens. I know you said that CCD doesn't matter, but the point is that it's a cost of doing business, and it's an escalating cost. It's a cost where we go from having one tariff to now having three tariffs on reproduction. It's just a multiplication of layering.

We do the activity of broadcasting—

• (1125)

**Hon. Dan McTeague:** But you're getting more for less, Madam Courtemanche. Technology is allowing you to get more with less.

Let me take another part, about the \$10 million—

**Ms. Sylvie Courtemanche:** But our activity hasn't changed since the dawn of time. When we started radio—

**Hon. Dan McTeague:** Are you suggesting that technology has not changed to allow you to do more with less?

**Ms. Sylvie Courtemanche:** I'm saying look at what we do. We play music on air. That has not changed.

**Hon. Dan McTeague:** So 80% of your time is in music, and you're forced to take a small amount—

**Ms. Sylvie Courtemanche:** We're paying for the music. We're paying \$64 million a year for that right. We pay the biggest royalties in Canada. We're paying for that right. We're not arguing that we shouldn't be paying for the.... We make money from the broadcast—

**Hon. Dan McTeague:** Ms. Courtemanche, I think you're overstating the case. If you want to be political about it, then unfortunately that's the way it's going to have to end.

**The Acting Chair (Hon. Maxime Bernier):** Thank you, Mr. McTeague.

I will give the floor to Madame Lavallée.

[*Translation*]

Ms. Lavallée, you have seven minutes.

**Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert, BQ):** Thank you very much, Mr. Chairman.

Welcome to you all. I'm pleased to welcome you here this morning.

First of all, I want to tell you that I read your briefs in full, particularly yours, Ms. Courtemanche, from the Canadian Association of Broadcasters.

I read it carefully and analyzed it. I saw that you said it was essential that Bill C-32 be adopted. The Bloc québécois also believes that passing a bill designed to modernize the Copyright Act is essential, after 15 or 16 years of an old model that no longer corresponds to today's habits and which is not suited to the Internet or the digital universe. We have to change that act as soon as possible, but the bill must nevertheless be balanced. You say it's essential to pass it. I entirely agree with you.

You say the radio stations and broadcasters generally are enriching agents in our society. You're entirely right. You're important for the Canadian and Quebec economies. You have an immensely important role in the star system of Quebec and no doubt of Canada, which I know less, and I apologize for that. You are brilliant business people who are successful. Revenue of \$6.58 billion isn't nothing. We congratulate you on your profits of \$1.5 billion.

You say you represent 600 radio stations and 10,500 employees, to whom you pay \$612 million. You're enjoying good success, and we're proud of that. We encourage you to continue. You're having major success and, no doubt, minor failures, like all the major industrial sectors.

We could discuss the principle of the \$21 million you're asking not to pay. We could do that. I have arguments, whereas you say it goes to foreign multibillionaires. It should not be forgotten that there is reciprocity. Other countries pay royalties to our artists. You say the small radio stations bear an incredible burden. We know they have to complete a form every month and send five cheques. I don't want to go back over each of those arguments, but I want to talk to you about the principle of Bill C-32 which is unbalanced.

Your approach, your testimony and your brief are the perfect illustration of that. There are others, of course, but what you're saying about this is one of the best examples we can cite. You pay \$21 million in royalties for what's called ephemeral recording and you don't want to pay for that. That's not in Bill C-32, and you're quite pleased about that. That \$21 million amount inflates your profits, which are already respectable, and you want to take that money away from the artists, the crafts people and the people who will be making other cultural productions and artistic creations. That makes no sense. You're one of the examples, but we could cite others, for the \$126 million that's taken away from artists.

I'd like you, Ms. Courtemanche, and anyone who wants to speak, to talk to me about the principle of this bill which is unbalanced in favour of the industry and against artists, as you've just demonstrated.

**Mrs. Sylvie Courtemanche:** Ms. Lavallée, with all due respect, I don't agree with you. I don't believe that your premise, that the bill is unbalanced, is correct. That's our point of view and I respect yours. I believe the bill is balanced.

However, I admit it isn't perfect. I entirely agree with you on that point.

Is it the best bill possible? It isn't perfection, but it's a game of compromise. There are winners and losers, but we're trying to strike a balance between the copyright owner, and the fact that that person is entitled to receive reasonable royalties reflecting the market value of his or her product, and the users of that product. That's what the legislation aims to do. It attempts to reconcile these two interests and to establish a balanced framework.

When we talk about the exemption sought, it isn't just a matter of putting that money into our pockets.

•(1130)

**Mrs. Carole Lavallée:** It will indeed have the effect of inflating your profits, Ms. Courtemanche. I mean that you are one of the factors of this imbalance; you aren't responsible for the imbalance.

And you're asking us to take \$21 million away from artists' royalties and to redistribute it to the industry, which is already a billion-dollar, and even multibillion-dollar concern; I congratulate you on that.

**Mrs. Sylvie Courtemanche:** First of all, most of the G20 countries have this kind of broadcaster exemption. So we're a separate case. Apart from two countries, I believe, France and Belgium, everyone, including the United States—

**Mrs. Carole Lavallée:** There's Switzerland. All right, the United States also has an exemption, but a number of countries don't. Canada isn't the only country in the world, no.

**Mrs. Sylvie Courtemanche:** No, but the majority—

**Mrs. Carole Lavallée:** You'll send us a list. Ms. Courtemanche, send the list to the members care of the Chair.

**Mrs. Sylvie Courtemanche:** I'll send you the list.

If the music industry is in jeopardy, it's not because of broadcasters. We do a good job, as you said. We're good people; we aren't bad people.

**Mrs. Carole Lavallée:** We know that, and we appreciate you.

**Ms. Sylvie Courtemanche:** We come here and we're told things like that.

First, not all stations are making big profits. We have to agree on the fact that most of the stations that are making very good profits are located in the major markets. However, we represent more than 600 stations, the vast majority of which are positioned in small markets. They aren't making big profits, madam.

**Mrs. Carole Lavallée:** However, it all ultimately balances out. We know that, Ms. Courtemanche. You're a business woman, and you know that. If the big stations didn't compensate for the profits of the small ones, you would abandon them. And that's what you recently did.

**Ms. Sylvie Courtemanche:** Ms. Lavallée, you're arguing from the principle that all the small stations are owned by large corporations. That isn't the case. In the next few meetings, you'll be meeting witnesses who own four stations. There are a lot of people like that. A large percentage of the small stations are operated by independent entrepreneurs who own one or two stations. They have a very difficult task and day-to-day existence.

As for the artists, they like local radio. For example, in a small community like Pemberton, a minor musician who comes from there wants his productions to be heard on the radio. That's important for him.

We want to support our industry. I work from the principle that I don't make a copy because I want to make money, but because I simply want to broadcast a product. When I broadcast, I pay a good price for the right to do so.

Thank you.

**The Acting Chair (Hon. Maxime Bernier):** Thank you, Ms. Courtemanche and Ms. Lavallée.

I will now give the floor to Mr. Angus.

[*English*]

**Mr. Charlie Angus (Timmins—James Bay, NDP):** *Merci, monsieur le président.*

Thank you for coming.

It's certainly a hot morning. I would advise your publicist in future to do the attack ads after you come to committee, not before. We would all have been getting along very well this morning, but when you do attack ads, it does put people's backs up, so you get what you get.

•(1135)

**Ms. Sylvie Courtemanche:** [*Inaudible—Editor*]...react.

**Mr. Charlie Angus:** Fair enough; we'll look at how big the bus is.

At the outset, private radio does amazing work. I look at my riding and I see the work—the charity, the outreach, Q92, Moose FM. We have CHYK-FM for the francophone community, CJKL-FM. This is not in dispute.

What is in dispute, as you say, is the issue of balance and fairness. Everyone who's come before us on any side has said that the sky is falling in. So I'm a little jaundiced about the sky falling in. I just want to get a little information here.

At the outset, I find it odd that I'm listening to some very large stations and some smaller ones warning us about the dangers of giving money to foreign multinational corporations. You sound like the New Democrats in 1965. Those four multinational corporations are EMI, Universal, Sony BMG, Warner. They are the big players in the United States and Canada. I want it on the record here, I'll be going to bat for CRIA and RIAA today, but they are a driving force in the record business.

But there is also independence; in Quebec, you're paying almost entirely to Quebec artists. If you don't want to be paying this money to foreign nationals, why don't you just play more Canadian content and it will all go to Canadians?

**Ms. Sylvie Courtemanche:** We play 35% Canadian content and we're very proud. In Quebec that amount is a lot higher. But 35% is—

**Mr. Charlie Angus:** So it's 35%; I just find the argument to say if you have to pay this mechanical, it's going to go overseas.... Why not just play Canadian acts, maybe up to 50%, and then you'd be doing yourself a favour as opposed to warning us that these are big, bad multinationals? Those big, bad multinationals are also in Canada. They're also signing acts. They also have operations internationally where they're collecting royalties, and there are reciprocal agreements.

Why not just up your Canadian content?

**Ms. Sylvie Courtemanche:** I'll let the operator explain how a radio station works and what audiences want to hear.

Brad, do you want to go ahead?



**Mr. Brad Phillips:** Thank you, Sylvie.

Mr. Angus, no one can dispute that Canadian radio supports Canadian artists. We've made careers for hundreds—

**Mr. Charlie Angus:** But that's not in dispute. What's in dispute is the warning that we shouldn't be giving money to foreign multinationals when that's what you're playing.

**Mr. Brad Phillips:** With due respect, though, your suggestion that we should play more Canadian content music and not play what's best for our audience and ignore a proper programming of our station so that we can overcome this inequity that's being put in front of us seems hardly logical.

**Ms. Sylvie Courtemanche:** If you want Canadian radio to shut down very quickly, Mr. Angus, I can tell you that if you want to change our business model.... For instance, I really thought that Canadian broadcasters, as you said, are smart operators and know how to operate their business. Now you're telling us that we don't know how to operate our business. Which is it?

**Mr. Charlie Angus:** No, I'm telling you that you're giving us a specious argument. You're coming here and warning us about big, bad multinationals when that's part of your business. That's why you pay them. End of story. So don't come and ask us to protect you from paying multinationals.

But I have to move on, because I didn't hear an answer to Mr. McTeague's question about the cost. I was looking at your brief, and I did check it with the Copyright Board, which adjudicates the tariffs. Let's break down the tariff costs for a small station: average gross income of \$120,000, total royalties \$4,646; but if we take the mechanical royalty, it's about \$720 a year.

If you are going broke paying a mechanical of \$720 a year, I think that station would go under anyway, don't you?

**Ms. Sylvie Courtemanche:** It's cumulative, and it's not the only tariff payment that we're paying.

**Mr. Charlie Angus:** No, but you're paying a total royalty payment adjudicated by the Copyright Board of \$4,646 a year. That's total royalty payment for a small radio station. Your costs to CSI are \$365, AVLA and SOPROQ \$334, and then for an artist mechanical it's \$7. That's about \$720.

So I'm just saying to you that, if you're crying poor with that, I'd be shutting that station down anyway.

**Mr. Gabriel Van Loon (Lawyer, Canadian Association of Broadcasters):** That's not the answer, and with respect, you're cherry-picking the numbers. There are stations in the middle. There are a lot of stations that have revenue slightly higher than that, that would be paying a lot more in reproduction right royalties.

**Mr. Charlie Angus:** Yes, so for a typical medium-sized radio station—\$1,100,000 market—their total royalty payments would be \$44,542. But if you break down the mechanical royalty, that's \$9,200 on a station that's doing \$1,100,000 a year.

**Ms. Sylvie Courtemanche:** Perhaps Brad could talk about the cost of operating a radio station at \$1,100,000 in terms of employees and all the infrastructure. And don't forget, we're having to try to modernize; we have to go into a digital environment.

**Mr. Charlie Angus:** I know what the costs are, but I look at what you made last year, and you're in the...above and beyond costs, \$1.5 billion. Last year, which was probably the worst year in memory, you were at 18% profit; in 2008 you were at 21%.

I'm just saying that this isn't going to break you.

**Ms. Sylvie Courtemanche:** You're penalizing success, and you're not looking at the principle. We think that the more successful we are, the more we pay on our royalty payments when it comes to the communication right.

**Mr. Charlie Angus:** I totally support success. I just wanted to get to the numbers, and those numbers were there.

I guess the other question I have is in bringing us in line with our international partners. I looked into that. Many of our partners set much higher tariff rates for play.

I look at the United States, which would be our number one trading partner. It doesn't have the broadcast mechanical, but broadcasters are legally allowed only a temporary copy of a transmission program. That's the entire show. There are no exceptions for reproduction of individual musical works, and they don't allow the broadcasters to build a library of musical works.

In the U.K. and Netherlands, they pay for both the communication right and the reproduction right.

In Germany, Spain, and Mexico, the exception allows broadcasters to make only one reproduction for the purpose of a single broadcast.

So is it really fair to say the situation in Canada, with that \$700 that you're going to pay on top of that, which allows you a lot of flexibility...that it doesn't exist in many of our competing markets?

● (1140)

**Ms. Sylvie Courtemanche:** First of all, to reiterate what Gabriel said earlier, you're cherry-picking some pretty small numbers. As to copyright liability, when you look at what's happening in the U.S., it's about 2.4%. It's a marginal rate. Our marginal rate is 5.7%.

You know, if you want to start comparing, that's the difference, okay?

Now, if you want to compare....

Sorry?

**Mr. Charlie Angus:** [*Inaudible—Editor*]...in the U.S., whereas here you are. You're given a fair amount of flexibility. That's just what I'm saying, that it's not as if we have this onerous copyright regime. With the mechanical, you've been given a fair amount of latitude, whereas that doesn't seem to exist in some of our competing countries.

**The Acting Chair (Hon. Maxime Bernier):** *Merci*, Mr. Angus.

Now I will give the floor to Mr. Del Mastro.

**Mr. Dean Del Mastro (Peterborough, CPC):** Thank you, Mr. Chairman.

Thank you to the witnesses.

I guess I'd start by saying that now you see what we have to deal with, so welcome.

I do sympathize a great deal with the Recording Industry Association's position. They're an industry that has been decimated, frankly, by the fact that we haven't been able to put protections in place that would re-establish the marketplace for music. I think they have seen about three-quarters of a billion dollars of their total revenues wiped out, and they're looking at the ephemeral rights and saying this is really important to them because their industry has gone from well in excess of \$1 billion to \$400 million, and they're hurting. I don't question for a minute that the Recording Industry Association is hurting and that comes back on artists.

The government's position on this, and I think this is an item of consistency on our part, is that we don't think you should have to keep paying for the same rights over and over again. That's been our position. There has been a lot of debate on this committee about some kind of digital copying levy, or an iPod tax as we have referred to it. What we've said is that if you buy the music, you should be able to put it onto a format that you want to listen to it on.

What you're saying is this: we have no problem in paying for music—we pay \$65 million a year for music—but why can't we get the music in a format that we can actually play it in and why are we paying again to be able to play the music in the format in which we use it?

Isn't that your argument?

**Ms. Sylvie Courtemanche:** That's exactly what our argument is. It doesn't make sense to us. If the government has decided that it doesn't make sense to have an iPod tax, agreed. If the government has decided that...

You know, we have television stations. We have a signal right. But people have decided that they like PVRs and they want to be able to time-delay. Well, we're not coming to the government and saying, "Wait a minute, that's an infringement of our copyright." We say, "You know what? That makes sense. If somebody wants to time-delay our programming, I'm not going to give consumers a hard time. This makes sense."

We just think this makes sense. And I agree with you, let's face the facts; the music industry—we're not the cause of it. It's peer-to-peer sharing, and this bill deals with that. We're not going to save the Canadian music industry with \$21 million.

We have an analogy for this.

Do you want to go ahead and give your analogy?

**Mr. Gabriel Van Loon:** You can look at the Canadian music industry as a ship that has taken on water and is sinking. Our broadcast ephemeral is like a little bucket. If you think you can save a sinking ship with a little bucket, you're fooling yourself. It's a very small amount. It makes a big difference for our industry; it makes very little difference for the music industry.

**Mr. Dean Del Mastro:** Obviously what I would say to that is that, first of all...and I appreciate that broadcasters, especially broadcasters that are across many different formats, like Corus, which is in television broadcasting and so forth, have in fact looked at the bill and said, "You know what? We're not crazy about PVRs, but at the same time, we think the bill is balanced. We've given up something. On balance, it's good for the country." I appreciate your position on that.

As you said, \$21 million isn't going to save the recording industry. Is it going to save some small radio stations? Is that really...? You've started a campaign to save local radio. Is it your position that the escalation of fees that you are paying is putting small and medium-sized radio stations in this country at risk?

**Ms. Sylvie Courtemanche:** Yes, because it's cumulative; over the last ten years it has just mushroomed. As I said, it's not keeping pace with our revenues, and our activity of broadcasting has not changed.

Brad, did you want to make a comment on that?

● (1145)

**Mr. Brad Phillips:** Sure, a number of comments, but I'll try to limit it to a few.

First of all, as far as the record companies are concerned, it strikes me as absurd that when they were having those billion-dollar-plus profits, they were doing that through the record airplay that we were providing. We didn't come to them at that point and ask for a portion of those profits.

Now that their profits are slumping and they have a problem, we're sympathetic to those problems, but it feels as though we're being asked to bail them out, which doesn't seem fair.

**Ms. Sylvie Courtemanche:** It's almost like social engineering here. It seems that on the bill they're trying to do some social engineering: when industry is in trouble, we'll take another industry to pay that.

That's not the purpose of the Copyright Act, to do social engineering.

**Mr. Dean Del Mastro:** No, and in fact it's not really how you build a perfect competition economy, either.

You're saying that small and medium-sized radio stations are at threat. I know that people working at your radio stations don't make a lot of money. It's a small-margin business. That's the truth of the radio business. Thank goodness people want to hear themselves on the radio, or you guys would be in real trouble.

What would be the impact on small and medium-sized communities if you closed these stations? I know that in my community one of the first things charities do, one of the first things I do when I need to get a message out is go to local radio and they push it out.

By the way, it's not as simple as saying that if you played more Canadian artists, the money would stay in Canada. People have options today. They have satellite radio. If you're not playing the music they want to hear, they'll listen to it somewhere else. So that's not a realistic—

**Ms. Sylvie Courtemanche:** I agree, it's not a realistic model; to start telling us that we don't know how to play for our audiences is just wrong. Yes, we do play...and you know what? It makes a huge impact. People want their local news. They want local reflection. We are a terrific community contributor through both our PSAs and our charities. We're legendary: Haiti, whatever, it doesn't matter; if somebody is in trouble, if a mother is having a problem getting her child to some clinic, the radio—

**Mr. Dean Del Mastro:** School bus cancellations.

**Ms. Sylvie Courtemanche:** Whatever; but the next thing you know, you have \$50,000. The community is going, "Oh, my God, she needs a liver transplant, and she needs some money." This happens every day on local radio.

If local radio stations close, the tap will shut off entirely. They will get no communication rights. They will get no reproduction rights. They will get nothing. They will lose all the exposure. The community will lose its best local reflection.

I think it's important that local radio be seen as the contributor it is. It should be recognized in a balanced act, which we think the copyright reform act does.

**Mr. Brad Phillips:** It's hard to listen to this discussion about fairness and balance, and talk about what happens in reality inside a radio station. Radio stations are like any other business. We have more than one computer. On what we're really talking about here, the music director's computer intakes the song from the record company. To get it ready to play on the air we have to put it over to another computer. Then we play it on the air. That process is \$21 million to our business. You can talk about efficiencies all you want, but how is that fair and balanced?

[*Translation*]

**The Acting Chair (Hon. Maxime Bernier):** Thank you very much.

I'll now give the floor to Mr. Rodriguez.

**Mr. Pablo Rodriguez (Honoré-Mercier, Lib.):** Thank you, Mr. Chairman.

You talk about the importance of radio, particularly local radio. But we all agree with you. That's not the question. That isn't the topic, the theme. We don't agree with you because you're seeking an exemption regarding existing rights. You essentially want to increase your profits to the detriment of our creators.

I don't agree either when you say the industry as a whole doesn't have the necessary resources. We're talking about \$64 million out of \$1.5 billion in revenue. I believe approximately 5% or 6%. You

mentioned an unsustainable burden, and I find it hard to believe that it can be considered that way.

As a preliminary question, I'd like to know whether the copy we're talking about has a value.

**Mrs. Sylvie Courtemanche:** In what sense? Do you mean market value?

**Mr. Pablo Rodriguez:** Does it have a value? Is it worth something?

**Mrs. Sylvie Courtemanche:** Are you talking about market value?

• (1150)

**Mr. Pablo Rodriguez:** First, does it have a value for you? Is it useful to you?

**Mrs. Sylvie Courtemanche:** You have to recall that content is not always delivered in a format that we can use. Sometimes there has to be a change in format. Tell me, does that have a value? If someone sends me music in one format and I transfer it to an MP3 format, do you believe that has a market value?

**Mr. Pablo Rodriguez:** To the extent that's necessary for you to subsequently to broadcast it, it seems to me it has a value.

**Mrs. Sylvie Courtemanche:** Yes, but you asked me a question about the market value, and I'm telling you that we receive content in formats that I can't use. So I have to make a transfer. You think that has a market value?

**Mr. Pablo Rodriguez:** But if you couldn't do that through new technologies, you'd go back to what, to CDs? You'd have libraries of CDs, a DJ and researchers?

**Mrs. Sylvie Courtemanche:** We'd have to go back to music libraries and tell people from the record companies—

**Mr. Pablo Rodriguez:** You don't want to do that?

**Mrs. Sylvie Courtemanche:** The people from the record companies wouldn't be happy if we told them to keep their content because we're not interested.

**Mr. Pablo Rodriguez:** That's why I think that has a value. If you no longer have to maintain a library because you no longer have researchers—

**Mrs. Sylvie Courtemanche:** And the value associated with the fact that the music industry is no longer required to make a physical product isn't recognized?

**Mr. Pablo Rodriguez:** Well yes, it's recognized.

**Mrs. Sylvie Courtemanche:** It's not reflected in the tariff, and the tariff doesn't reflect the value of the advertising.

**Mr. Pablo Rodriguez:** The technology has evolved. It's resulted in benefits for creators, but also constraints, such as the fact that their music is being downloaded.

**Mrs. Sylvie Courtemanche:** We're talking about justice, Mr. Rodriguez. However, the tariff acknowledges no value for the advertising we do for Canadian artists. No value is attributed to that. In what way is that fair? You believe that we're bad guys and that only the creators are good people.

**Mr. Pablo Rodriguez:** Not at all.

**Mrs. Sylvie Courtemanche:** We're also good people in the radio industry. We aren't all bad people.

**Mr. Pablo Rodriguez:** Yes, yes, we love you; we love you.

**Mrs. Sylvie Courtemanche:** I frankly consider that a curious view.

**Mr. Pablo Rodriguez:** You say you're paying twice for the same right.

**Mrs. Sylvie Courtemanche:** We pay for what amounts to handling. We're—

**Mr. Pablo Rodriguez:** When you were speaking with Mr. Del Mastro, you said you paid twice for the same right. However, there are two rights.

**Ms. Sylvie Courtemanche:** The current act treats reproduction as a right that is separate from the communication right.

**Mr. Pablo Rodriguez:** There are two different rights: reproduction and communication.

**Mrs. Sylvie Courtemanche:** Under the act, that's correct.

**Mr. Pablo Rodriguez:** You want to eliminate one.

**Mrs. Sylvie Courtemanche:** That's not what we want. Mr. Rodriguez, we're saying that certain reproductions are made for financial reasons. If I made a copy of a book and I sold it, that copy would earn me money. In that case, I would have to pay; that's obvious. However, we're talking about a technical reproduction on which I make no money. I'm not engaging in promotion by doing that; it's simply to facilitate matters.

**Mr. Pablo Rodriguez:** Nevertheless you need to do it in order to operate your business; you need that reproduction; otherwise you can't play music.

**Mrs. Sylvie Courtemanche:** I need music in order to play it, of course, but I consider it unheard of that this should apply to the act of changing formats, as Mr. Del Mastro said. If I buy a CD and I transfer it to my iPod, I don't want to pay a second time. That's a good analogy.

**Mr. Pablo Rodriguez:** You pay as little as possible.

**Mrs. Sylvie Courtemanche:** We pay \$64 million a year; I don't think that's as little as possible.

**Mr. Pablo Rodriguez:** How much did you say?

**Mrs. Sylvie Courtemanche:** It's \$64 million a year.

**Mr. Pablo Rodriguez:** What percentage of your revenues does that represent?

**Mrs. Sylvie Courtemanche:** You're considering that separately from all our other payments.

**Mr. Pablo Rodriguez:** Yes, because we're talking about that.

**Mrs. Sylvie Courtemanche:** We're not talking about the communication right.

**Mr. Pablo Rodriguez:** How much are we talking about?

**Mrs. Sylvie Courtemanche:** I'm a lawyer; mathematics isn't my strong suit?

**Mr. Pablo Rodriguez:** Does someone here know how to count?

[English]

**Mr. Gabriel Van Loon:** We have the \$64-million payment for the communication right.

**Ms. Sylvie Courtemanche:** What percentage of our revenues does that represent...radio industry?

**Mr. Gabriel Van Loon:** As a percentage of revenue—

[Translation]

**Mrs. Sylvie Courtemanche:** This is separate from all our other payments.

**Mr. Pablo Rodriguez:** Yes, I know, but I'm asking the question; that's my right.

**Mrs. Sylvie Courtemanche:** It's more than 4%.

**Mr. Pablo Rodriguez:** Imagine, 4%!

**The Acting Chair (Hon. Maxime Bernier):** Thank you, Mr. Rodriguez.

Now I'll give the floor to Mr. Cardin.

**Mr. Serge Cardin (Sherbrooke, BQ):** Thank you, Mr. Chairman.

Good morning, madam, gentlemen.

Some aspects of the business of certain copyright-related industries are still a bit foreign to me. A little earlier, there was vigorous talk about the \$21 million. If \$64 million represents roughly 4.8%, \$21 million represents more or less 1.65%. That's not necessarily a fortune, when you compare it to \$1.5 billion.

One thing intrigues me. The durability of a radio station, among other things, is related to what's offered to the community served by that station. We know that the regional aspect is often important. In your industry, what percentage of the industry's overall budget can internal production represent?

• (1155)

**Mrs. Sylvie Courtemanche:** I don't have that figure. I can commit to providing it to you, but I don't have it in mind.

**Mr. Serge Cardin:** My purpose was to make the connection between what you have to invest and pay in order to produce internally and what you use that is already produced. Ultimately, you have an inventory of a number of artists who are there, at the ready, prepared to appear day after day on your airwaves and who nevertheless represent the equivalent of a number of productions. You have hundreds and thousands of artists in reserve, in inventory: singers, performers, authors, musicians, except for dancers because you don't see them—

**Mrs. Sylvie Courtemanche:** That's the value of the people who are on the air. It's not just the music that has value; the hosts also have major value. You have to take that into account. Radio programs or stations often have good ratings not because of the music, but because of the hosting. I'll give you a good example. Paul Arcand's program in Montreal has the highest rating at his station. There's no music; there's just talk. Music isn't the only thing that has value; spoken content is very important as well.

**Mr. Serge Cardin:** That depends on the station's purpose. You wouldn't necessarily be able to afford to pay a lot of Paul Arcand who speak like he does to fill your entire station.

**Mrs. Sylvie Courtemanche:** In the mornings, a music station always has a well-known host because that's how they attract an audience: not just with music, but really as a result of spoken content. In Quebec City, for example, the morning programs of virtually all the stations consist of spoken content. There's virtually no music.

**Mr. Serge Cardin:** That's why I think it's important to have a clearer idea of your internal production compared to all the products of artists and creators that are used. I believe that has a price.

We're focusing on an amount of \$21 million, which I think is of relative importance compared to \$1.5 billion.

**Mrs. Sylvie Courtemanche:** We're focusing on payment, but also on the principle. We don't agree with the principle.

**Mr. Serge Cardin:** The principle is important in both ways. There are authors, creators, who took advantage of that principle to make money, and you want to abolish it overnight.

**Mrs. Sylvie Courtemanche:** The amount for production-related royalties has been set at more than \$21 million since June 2010. Before that, it was \$9 million. There's been a one-time increase of \$12 million. That's how it works. That's one of the reasons why we find it hard to accept. It started off at zero, then increased a little, to \$3 million or \$4 million, and then was set at \$9 million. And suddenly, in the twinkling of an eye, the amount suddenly more than doubled. That's why the industry is irritated. If it continues like that, the amount will have doubled again in three years, and it won't stop. That's the situation we're facing.

**Mr. Serge Cardin:** We're aware of advertising costs because we've had repeated elections. There were elections in 2004, 2006 and 2008, and we'll be having another one soon. The volume of radio advertising is increasing too.

**Mrs. Sylvie Courtemanche:** Yes, but we went through a recession, and I can tell you the industry took a hit during that period. Local radio is the hardest hit industry during a recession.

[*English*]

**Mr. Brad Phillips:** The only thing that is of value to a radio station is that which attracts an audience that we can sell to advertisers. The process of transferring from one computer to another computer is of no value to us. It's just something we have to do so we can do the thing that has value.

When we do the thing that has value—play it to our audience—we pay for that, happily.

[*Translation*]

**The Acting Chair (Hon. Maxime Bernier):** Thank you, Messrs. Cardin, Phillips, Van Loon and Keller, as well as Ms. Courtemanche.

We'll now suspend proceedings for three minutes to let the other witnesses get settled.

- \_\_\_\_\_ (Pause) \_\_\_\_\_
- 
- (1205)

**The Acting Chair (Hon. Maxime Bernier):** Good afternoon. Welcome to our guests. We'll now continue our meeting on Bill C-32.

Today we're pleased to have the radio consultant, Mr. Guy Banville, testifying as an individual, and Mr. Paul Larche, president of Larche Communication Inc. Thank you for being with us. We also have Mr. Ross Davies, vice-president for programming and operations at Haliburton Broadcasting Group Inc. Thank you for being with us.

Every participant will have five minutes to make a presentation. Then committee members will be able to ask questions.

[*English*]

I will give the floor to Mr. Banville for five minutes.

[*Translation*]

**Mr. Guy Banville (Radio Consultant, As an Individual):** Good afternoon. My name is Guy Banville. For 37 years, my career has focused essentially on my role as a program director at radio stations in Quebec and France. Whether in the dance music format of the 1980s, the RockDétente format that I created with an amazing team in Quebec in 1990, the national program of the 190 radio stations in the Europe2 network in France, or the Quebec radio stations of the RNC Media group in recent years, I realize that the design of all these radio offerings to date has been indissociable from the development of Quebec artists.

I know that you've heard a lot about Quebec artists, but perhaps a little less about Quebec broadcasters. So I thank you for giving us the opportunity to appear before you today to add the voice of Quebec broadcasters to the discussion.

I'm used to saying that record producers are gardeners, that artists are flowers and that radio stations are perfume makers. We like the flowers we select, and we offer them to our listeners, who sometimes, even very often, go out and buy the perfume. We pay a portion of our incomes to the gardeners.

With its contribution to the development of Canadian content and its copyright royalties, radio takes part in the artistic development of Quebec artists. Its contribution is not always quantified, such as when it broadcasts promotional interviews or sponsors shows and festivals. In Quebec, 65% of what we broadcast is francophone music, mostly Quebec music. That gives you an idea of the enormous presence of Quebec artists on our airwaves.

Today, Quebec radio is facing major challenges, and those challenges are the same for large and small radio stations alike. I'm going to name two.

First, Quebec radio must invest extensively in technological tools in order to prepare for the migration of content to the new digital platforms. It also has to deploy considerable resources and money to develop radio hosting talent because we believe the future of radio depends on the human voice. After all, that's what differentiates us from other music platforms.

However, radio personalities, that is to say radio hosts, who we think are also artists, have to develop unprecedented technological adjustment ability. In addition to communicating well on air, they must, for example, be agile in their use of social media and digital archives. In view of these challenges, we fear there will be a significant increase in our production costs. That's part of our situation. In view of the fact that the number of radio services based in Quebec is higher than the number of Quebec operators, any increase in copyright royalties would result in a net outflow of money from Quebec to international recipients. I understood what was stated earlier.

Quebec broadcasters, both big and small, support Bill C-32. We believe this bill represents a serious step toward the adoption of a sensible copyright system in the Internet and digital technology era. The current Copyright Act is obsolete and impractical in the digital economy. From the broadcasters' standpoint, it creates a climate of uncertainty at a time when we are improving our services. It also creates numerous royalty levels for what is essentially a single activity, music broadcasting.

In many industries, users of copyright-protected works are required to make copies, given the various digital technologies currently in use. Copies made by broadcasters are simply an incidental factor in the process of broadcasting music. Including an exemption for reproductions made by broadcasters acknowledges their incidental and technical nature.

The amendments being proposed by broadcasters are consistent with the general aim of Bill C-32 to limit royalties relating to a number of technical processes, such as the provision enabling consumers to record programs for later listening or viewing, which is essentially an exception to the broadcaster's right to fix its signal.

• (1210)

Broadcasters support an approach based on the principles for the adoption of exemptions for incidental reproductions. Broadcasters support Bill C-32. Quebec broadcasters support Bill C-32.

I'm going to ask Mr. Ross Davies to continue.

**The Acting Chair (Hon. Maxime Bernier):** Perfect.

[English]

Mr. Davies, you have five minutes.

**Mr. Ross Davies (Vice-President, Programming and Operations, Haliburton Broadcasting Group Inc.):** Good afternoon. My name is Ross Davies. I'm the vice-president of programming and operations for Haliburton Broadcasting Group Inc., based in Toronto, Ontario.

I'd like to thank you for inviting us to speak here today.

I am a life-long broadcaster. Having followed in the footsteps of my late father, I grew up in this business. During my career I've held key programming positions in Canadian radio. Like most people in broadcasting, I started at the ground floor, working in various tasks in the programming area, which included on-air announcing, music programming, and program management.

I spent over 20 years at CHUM Limited. I was fortunate to ultimately advance to the position of vice-president of programming

for CHUM Group Radio, responsible for all its radio stations across the country.

I am the former vice-president of programming for Astral Media Radio GP, and I spent two years in the satellite radio business helping to launch XM Satellite Radio in Canada, in 2005.

I've also operated my own broadcast consulting firm representing a number of clients in Canada, including Standard Radio, Maritime Broadcasting, and Haliburton Broadcasting.

I am the past president of the Ontario Association of Broadcasters. I was the inaugural chair of the Radio Starmaker Fund and the former first vice-president of the Canadian Academy of Recording Arts and Sciences, CARAS. I still remain a member of MusiCounts, the music education committee for CARAS, and I once again sit on the board of directors for the OAB.

My position with Haliburton Broadcasting has brought me full circle in the radio business. After many years in the corporate office, I have returned to true grassroots radio, spending my days hand in hand with the people in our company, making our radio stations compelling, entertaining, and relevant to each of the communities we serve in Ontario. It has been a remarkable experience for me to once again see first-hand how vital local radio is in this country.

Haliburton has 18 radio stations, located in communities throughout north, central, and southern Ontario, reaching thousands of listeners each day.

Each year, for the past five years, our company has produced a new CD featuring up-and-coming local artists from our listening area. Virtually all of these artists are without a record deal. Our *Moose Trax* CD features 10 to 12 local artists and their songs. Not only do we promote the availability of this CD to the public for purchase, we also feature the songs on all of our stations, providing exposure throughout Ontario.

As my colleagues have said to you today, we support Bill C-32. Copyright reform is necessary and urgent, and we urge this committee to pass this bill.

Local radio is the strongest marketing tool for Canadian artists and music. This role needs to be recognized by government and the Canadian music industry.

Local radio is one of the most important and influential media today as it relates to local and community matters.

We understand paying to broadcast the music, but it's not fair to pay five times for the same thing. The cost of copyright has gone up 500% since 2001. This is endangering our business. In fact in some of our smallest radio markets, the reproduction tariff obligation represents the difference between being able to keep our stations on the air or not.

The bottom line: local radio matters to Canadians. It needs to be supported, and we need the broadcaster exception to stay in Bill C-32.

I'm going to leave you with some examples of direct contributions that broadcasters make within their own communities to local events and initiatives supporting the music industry, nurturing community interest in musical artists.

Here are some of the many music industry initiatives the CAB radio station members have supported this last year: the Winnipeg Jazz Festival; Kitchener-Waterloo Oktoberfest concert series; the City of Pembroke music festival; the Waterloo Region District School Board, for purchase of new instruments and sheet music; the Mariposa Folk Festival; RNC Media-Antenne 6 bursary program, to support students from the journalism program of Collège de Jonquière; the Western Canadian Music Awards; Les Rencontres de l'ADISQ; North by Northeast; MusiCounts, the music education program from CARAS; and FanFest at Canadian Music Week.

Private radio makes a real and substantial contribution to Canadian artists. The broadcaster exception in Bill C-32 will ensure that we can continue to do so.

Thank you.

• (1215)

**The Acting Chair (Hon. Maxime Bernier):** Thank you.

Monsieur Larche.

[*Translation*]

**Mr. Paul Larche (President, Larche Communications Inc.):** Thank you.

[*English*]

Thank you for having me here today.

My name is Paul Larche. I'm the owner and president of Larche Communications. I've been working in the radio industry since 1975, starting in Timmins, Ontario. I was also a part-time musician early in my career and owned a recording studio. I purchased my first radio station in 1995, CICZ-FM in Midland, Ontario. My company now currently operates four radio stations in the province of Ontario, employing 65 employees.

In my 36 years in the radio business, I have witnessed first-hand a lot of changes, many brought on by the advances in technology and the new digital world. When I started we played most of our music on turntables using good old vinyl 45s. But what hasn't changed is our primary mandate, which is super-serving our local communities.

Our companies are vital to the fabric of the communities, through hundreds of year-round fundraising activities for local charities, coverage and promotion of local events and stories, and the dedication of countless hours and energy required to bring people together for a common cause. We don't just broadcast music to our communities; we are an integral part of them. In the past five years, my stations have raised over \$750,000 for worthwhile charities in our communities, something we're very proud of.

As you've already heard from my colleagues, copyright is one of the biggest issues facing radio broadcasters. I'd like to explain to you, from a technical perspective, what actually happens at a radio station to get music on air. Maybe this will help you understand the process and why this reproduction right payment makes absolutely no sense.

At its core, the practice of getting music on air is fairly simple. The music industry asks us to air music and sends us a copy. To be clear, there was never any payment exchanged for this part of the process. They need the promotion that comes with the airplay, and we need the music to play on air. It's always been a great exchange.

When the Copyright Act was reformed last time in 1997, things started to change. Music was being delivered on CDs, and radio stations were using technology that required transferring the music into computer servers for playback. Unfortunately, this simple upload was now identified as a "copyright event", and despite the fact that radio stations made no additional money from the procedure, this purely technical process at the time was valued at \$5 million per year by the Copyright Board.

These days, no one uses CDs anymore. Instead of sending promotional representatives to our stations and pressing the music to CDs and putting them in CD cases, the record companies now just use a digital delivery service to send us individual tracks. They are still pushing the music, and they are still asking us to play it on air. Now, instead of uploading a CD, our music programmers simply accept the invitation from the record label and the song often automatically uploads into our systems. As of last June, this process has now been valued at \$21 million by the Copyright Board.

That's right: our stations are now making three different copyright payments, for a total value of \$21 million across the industry, to simply accept an invitation from the music industry to play their song. As I'm sure you can imagine, I have a hard time rationalizing the cash grab.

I have an even harder time processing the relative cost of these copyright payments to things like my employee salaries and benefits, technological upgrades to keep my business competitive, investments in research and development for new platforms to ensure the music we play gets heard by as many people as possible and frankly also to help me promote local artists in my area—particularly because this \$21 million is on top of the \$64 million that our industry pays to play the music in the first place, and then an additional \$51 million in contributions to Canadian content development.

I'm a small business. There are many more like me across the country. Our increasing copyright payments have a huge impact on our bottom lines. Of the four radio stations I own, two are relatively new and they're not making money yet.

Now, listen, don't get me wrong; I am more than happy, and I think it's more than just, that we pay our fair share for music. We should; we get great value for it. Our stations have always had a terrific relationship and partnership with Canadian artists. We have many awards from their industry to support this fact. But this reproduction payment is just downright unfair. When I explain the subject to my musician and artist friends, they agree it's irrational. Most of them are not even aware of it. And when I tell them that most of the money goes outside of Canada to international record companies, they often get mad.

The bottom line is that the reproductions made by broadcasters to get music into our computer system do not harm or shortchange the rights holders in any way.

•(1220)

Broadcasters make reproductions only to facilitate the broadcasting of the music. We've already paid to use it. New use is made of the music; radio makes no additional revenues. This is a purely technical event and is no different from what individual consumers do when they transfer songs they've legitimately acquired onto their iPods.

**The Acting Chair (Hon. Maxime Bernier):** *Merci.* Can you conclude?

**Mr. Paul Larche:** Yes.

Private broadcasters are pleased with Bill C-32, and we're hopeful that this committee will work together to pass it.

I thank you for the opportunity.

[*Translation*]

**The Acting Chair (Hon. Maxime Bernier):** Thank you, Mr. Larche.

Now I'll give the floor to Mr. Garneau.

**Mr. Marc Garneau (Westmount—Ville-Marie, Lib.):** Thank you, Mr. Chairman.

Thanks to all of you for being here today.

[*English*]

Thank you for taking the time and the trouble to come here today.

I love radio stations. I listen to them. All Canadians listen to them, and they perform a great service, very enjoyable. I think in probably many cases the music component is an extremely important part of it. In fact, I think one could go as far as to say that in many of these cases, if they didn't have the music, there wouldn't be the station. The question is one of recognizing what the value of that music is.

I'm not a lawyer, I'm not a broadcaster, but I can do my math. I've got some figures here from the Copyright Board. Those figures were provided by broadcasters, by yourselves. If I look at the past five years, it would seem that the profits before interest and tax—this is averaged over the 644 stations, and I'm dealing with all of them—average about 20%. Most companies and enterprises in this country would be delighted to have that kind of money.

If I also look at how much is paid out in royalties in the country, you pay out about \$85 million in royalties to a number of different organizations, which represents about 5.7% of the \$1.5 billion

industry. As I say, I can do the math here, and I'm having real, serious difficulty understanding why the amount of money that you're paying in royalties is such an unacceptable burden. I'd like you to enlighten me on that quickly, and I have some other questions.

Thank you.

**Mr. Ross Davies:** Mr. Garneau, thank you for your question.

We're only talking about the mechanical rights here. We're talking about the \$21 million reproduction right here. That's all we're talking about. The fact is that we're already paying the artists and the creators. We are already paying with these other tariffs we have.

It's really important that through SOCAN, and through Re:Sound, the creators, the producers, and the songwriters are being paid already.

**Mr. Marc Garneau:** Understand that are two rights involved here, and that is in the law.

**Mr. Ross Davies:** I understand that, and this is the point of our objection. It is about the mechanical rights reproduction.

I want to say to the music industry—I heard Mr. Angus say this two or three days ago, when he was talking to the music industry, and this has been said many times—that the music industry model is broken. They know that, we all know that, and we're all in here trying to help. I think that's what this whole thing is about.

I want to say to our friends in the music industry and to this committee, but specifically to the music industry, “Guys, you're aiming your guns at the wrong people. You're shooting your own people here, because we're in this business together.”

We have always been in this together with them. As Paul said, in the days of vinyl records and CDs, it was literally that. They would walk in. We had a great relationship. They gave us the music for free. They gave it because they wanted us to play the new record by Marc Garneau. They brought it in, we put it on our turntable, and we played it. It didn't cost anything. They were happy for that and everything was going forward.

Then one day—

•(1225)

**Mr. Marc Garneau:** I understand how the technology has changed.

[*Translation*]

I would like to ask Mr. Banville a question.



You mentioned that there are costs for radio stations. You of course have to have modern technologies to operate a radio station. At the same time, wouldn't you be prepared to admit that some costs are disappearing as a result of the emergence of that technology? I'm talking about labour costs, space costs for music libraries and so on. Isn't it true that, with modern technology, a lot of costs will disappear, which will ultimately make it possible, as I mentioned earlier, to achieve profits of 18% on average per radio station?

**Mr. Guy Banville:** Thank you for asking that question, Mr. Garneau.

With regard to the last point raised, I simply want to tell you that, for the future of artists, the strength and vitality of radio are good news, in my view. Imagine if we were in a crisis at the same time as them. One need only think of industries such as the book industry or the print media. So we're very lucky. I believe that's quite positive.

I'd also like to tell you that the costs that have declined have been replaced by other costs. There used to be no webmasters or social media specialists at stations. The music programmer is still—

**Mr. Marc Garneau:** I remind you that you're posting profits of 18% on average for the 644 stations.

**Mr. Guy Banville:** Mr. Garneau, I can tell you that I still work for a number of stations that aren't making those kinds of profits.

**Mr. Marc Garneau:** Unfortunately, I have to speak to the entire industry. We can always find exceptions, of course. Some make more profit and others less, but we're talking about the industry in general.

**Mr. Guy Banville:** All right, but you're talking about saving on costs. But I see that we haven't saved anything and that, in addition, we're required to hire people in the new technology field. Our survival depends on that. You're talking about music. Of course, that's what attracts people, but if there was just music, they would resort to satellite broadcasts, iTunes and all the rest. But they listen to us because we're responsible for talent broadcast over the air by people who have a love for music and a talent to convince listeners to love it as well. That has a very big impact on the music industry. We can't sell music simply by broadcasting it.

**Mr. Marc Garneau:** Let me ask you another question since you are—

**Mr. Guy Banville:** Those talents are increasingly expensive, if I may take the liberty of pointing that out.

**Mr. Marc Garneau:** Your activities mainly cover Quebec. Do you think that Quebec artists, musicians and composers are pleased with your position on ephemeral recordings? Do you think they find it fair?

**Mr. Guy Banville:** Look, Mr. Garneau, I've had disputes with the record industry throughout my career. I've always been told that, out of 800 new recordings, for example, you don't broadcast everything. We've had disputes; we can't broadcast everything; we can't do everything. However, I think artists are ultimately grateful to the radio industry because it does an extraordinary promotional job.

**Mr. Marc Garneau:** Yes, but I get complaints from a lot of artists and that generally isn't the message they send me. In fact, they feel abandoned in this situation.

**The Acting Chair (Hon. Maxime Bernier):** Thank you.

I'll now give the floor to Mrs. Lavallée.

**Mrs. Carole Lavallée:** Thank you.

Good afternoon, MM. Davies, Banville and Larche. I feel a bit uncomfortable about the fact that you're seated here seeking a reduction or cancellation of royalties on what's called ephemeral recordings. I believe the principle you're advocating is that you represent radio stations or own radio stations that belong to the major groups of Corus and Astral and that you're consequently not making a lot of money and profits and that this is an unbearable financial burden. Is that correct, Mr. Banville?

• (1230)

**Mr. Guy Banville:** I want to tell you that this isn't just about the small radio stations. A principle is a principle. Why pay two or three times for the same thing? This is part of our mechanism. We could also ask the record industry to provide us with the music in the format in which we broadcast it. That would be a bit complicated, and I believe it would cost those people much more than \$21 million because a number of technologies are involved. What can I say? This is related to the kind of technology we're offered, but we don't all have the same technology. As we're already paying our royalties; we could ask those people why they send us their music in a format that's impossible to broadcast. We could demand that they send it to us in a broadcast-ready format. This is a question of principle.

**Mrs. Carole Lavallée:** From what I've understood, you would nevertheless be required to transfer it onto your hard disk and—

**Mr. Guy Banville:** If we could broadcast it directly from Outlook, we would do it, Mrs. Lavallée.

**Mrs. Carole Lavallée:** The basic principle we have to come back to and that we must not stray from for technical considerations is that the musical work belongs to its creator or creators. When I go to HMV to buy a CD, I'm not buying the music of the Colocs because that music doesn't belong to me. I'm buying the pleasure of listening to it on that CD. Then, when I get home, if I make a copy of it on my MP3 player, I should only have to pay royalties on the copy. Every time we make a copy or change formats, it seems to me that it's normal for us to pay royalties to the person who owns the musical work in question.

It's that principle that was established in 1997 when the decision was made to charge royalties for ephemeral recordings. The principle was established, and it has worked very well in the past 14 years. Revenues were given to artists and now you want to take them away.

When the representatives of the television community appeared—I don't know whether it was here or before the Standing Committee on Canadian Heritage—they said they had essentially come to ask us for a copyright holiday. That makes no sense. They no longer wanted to pay royalties either for ephemeral recordings or for copyright, saying that they were a burden. It's not a burden, but an inventory. You never buy a musical work.

**Mr. Guy Banville:** No, but we pay a royalty all the same.

**Mrs. Carole Lavallée:** The least you could do when you copy a work for the first time would be to pay royalties to those who created it.

**Mr. Guy Banville:** Mrs. Lavallée, we pay our copyright royalties. I don't want to draw a bad comparison, but if someone buys a Riopelle, he's not required to pay for it two or three times because he shows it to friends.

**Mrs. Carole Lavallée:** He's not required to pay for it two or three times, but normally, if someone buys a Riopelle, he's buying the pleasure of having it at his home and looking at it. In fact, the work still belongs to Riopelle. The best proof of that is that we don't have a right to destroy an artistic work. In all European countries, they pay following rights. If a Riopelle is sold and resold through an art gallery, that gallery pays 5% of the revenue to the artist or the artist's heirs.

**Mr. Guy Banville:** But we're not in that business.

**Mrs. Carole Lavallée:** That's another proof that creation—

**Mr. Guy Banville:** We're just showing it at our gallery. That's all we're doing.

**Mrs. Carole Lavallée:** But there are exhibition rights. The work belongs to its creator and that's the principle that has to be understood and complied with in our everyday actions.

**Mr. Guy Banville:** We're not disputing that. We pay our royalties.

**Mrs. Carole Lavallée:** But you want to stop paying them.

**Mr. Guy Banville:** It's like changing summer tires and winter tires. It's a mechanical act that is absolutely incidental. It's just to enable us to broadcast their works.

• (1235)

**Mrs. Carole Lavallée:** No, but it's good for you: you constitute an inventory, a library.

**Mr. Guy Banville:** No, no, no.

**Mrs. Carole Lavallée:** Yes you do.

**Mr. Guy Banville:** No we don't. We broadcast the music and we pay our copyright royalties. We pay part of our turnover. We contribute to Canadian content. We have all kinds of activities, a number of which were cited here today, through which there is a genuine contribution to all artistic and cultural communities. I believe that the radio industry conducts itself very well.

This is a matter of principle for us because it can apply to a lot of other things, like to the act of changing or modifying a piece that is too long. For example, someone has composed a piece that is 11 minutes long but it's been cut down to four minutes. So you have to pay again because it has been modified to make it a piece of a reasonable length.

**Mrs. Carole Lavallée:** That's copyright. The copyright in question is modified by that act. The bill mustn't be considered from an Anglo-Saxon viewpoint. This isn't about copyright, but about the right of authors. So it's the right in favour of authors. That's what you have to understand.

**Mr. Guy Banville:** That's the approach we pursue.

**Mrs. Carole Lavallée:** That's why authors have to be compensated for what they do.

**Mr. Guy Banville:** We've done that.

**Mrs. Carole Lavallée:** Music people, unlike theatre people, aren't paid for their work as they do it. They work for six months or a year and then, if the public likes their work, they're paid for it. That's the characteristic of virtually all artistic production sectors, except for a few.

So the least we can do, from the moment a work is made public and a broadcaster copies it onto his hard disk, is to pay royalties to acquire it and constitute an initial library.

**Mr. Guy Banville:** Mrs. Lavallée, could I put a microphone in front of the signal I'm being given, the MP3—

**Mrs. Carole Lavallée:** That would be violating copyright.

**Mr. Guy Banville:** No, because I'm paying. Aren't the copyright royalties paid to authors recognized by your principle? Is the 4% that we give considered as nothing? You're telling me it's nothing. We don't have the right to reject music.

We're going to talk about that. You wanted us to talk about it.

**The Acting Chair (Hon. Maxime Bernier):** Thank you, Mr. Banville.

I'll now give the floor to Mr. Rafferty.

[English]

You have seven minutes.

**Mr. John Rafferty (Thunder Bay—Rainy River, NDP):** Thank you very much, Mr. Chair.

I'm very pleased to be here on this particular one, because my background is in radio. My background is in small radio, talk radio, not music, but I think the questions I have are still relevant.

Each of you can answer this question, unless your answer is exactly the same. Why do you think music companies don't send music to you in an immediately usable format?

**Mr. Paul Larche:** Different automation systems that we use, different computers, format the music differently in the way they compress it onto the hard drives. They might send it in a format that is not compatible with the automation system the radio station is using, so we have to transfer it from MPEG, for example, which is a compression format, to MP3, which is a different compression format, in order to put it in our system.

This goes back to the point that Ms. Lavallée was mentioning about the value of this. I know that if we asked record companies to send music to us in MP3 format, because we use MP3 format in our system, and we want them to upload it to our server directly, they would be more than happy to do that because they want us to play the music.

The record companies, the record representatives, and many of the artists come to our radio stations. They're asking us, and in some cases pleading with us, to play their music, especially new artists. They want to get it on the air; what do they have to do to get it on the air. They'll get it to us in whatever format we want.

The issue here, the mechanical issue, is just downright silly. It's a silly thing to say that we should pay more just for the reproduction of it. If it's an issue of the artist wanting to get more money, that's a separate issue. That's a separate copyright issue. This is like a loophole to try to get more money just because some people think that radio is doing well right now.

I've owned this radio station since 1975. When I started, I was paying 3.2% in royalty fees. I was receiving music through CD, and sometimes it was still even on records. Today I'm paying close to 9% of my revenues for it. I keep on hearing that profits are up because of efficiencies. Profits are also up because we've been better at marketing to advertisers and getting advertisers to use radio as an effective medium.

Again, there seems to be the notion here that two wrongs make a right, and it's just not right. The principle of this is not right. That's what doesn't sit well with broadcasters. We think the music industry is great. I personally have a great relationship with them, as do most radio operators. We know that we need each other. We want them to get their fair share, all of that, but this is just downright silly.

● (1240)

**Mr. John Rafferty:** I think Mr. Davies wants to say something.

**Mr. Ross Davies:** No, actually, it's better that Paul answer that question. He's much more technical savvy than I am, so I'm going to leave it with him.

**Mr. John Rafferty:** Mr. Banville, would you like to comment on that question?

[Translation]

**Mr. Guy Banville:** No, because my colleague gave a good answer.

[English]

**Mr. John Rafferty:** Okay.

Is it your feeling that we need to create a balance here? I am from northern Ontario, where more people probably rely on radio, and there are fewer radio stations than elsewhere in the country or in large urban centres. In many communities, radio is an important and integral part of the community.

Mr. Davies mentioned a number of things that his corporation is involved in, and I would suggest to you that all radio companies do essentially the same thing right across the country.

We've seen the ebb and flow of profits and the problems and difficulties radio stations face. Yearly, biannually, every 10 years, they come and go. People get bought out, stations get sold—that sort of thing. I'm thinking particularly of rural areas that really depend on radio. If there were an exception made and you could save, in terms of revenues, another 1% or 2% or 3%, do you think that would create more stability in the radio market across the country?

**Mr. Ross Davies:** Mr. Rafferty, thank you for your question.

I'm glad to hear that you're from northern Ontario and understand some of the realities of what broadcasting is, and living in those sorts of communities.

Absolutely, and let me see if I can give you a tangible example. Haliburton Broadcasting has a radio station in Timmins, and it has its

challenges. We have a technical challenge with our transmitter. We need to spend more money to increase the radiated power coming out of that transmitter. That's a hard cost to us. We don't have a live body on the afternoon show. Our competitors do. That's our problem. We recognize that, but we have to fight to do that. Right now the margins are so tight there that we can't afford to do that.

We are talking real dollars here, and to answer your question, that kind of exemption from this right, which is a duplication of all these other tariffs we'll be paying, absolutely will have an effect on our service in those communities. That is without a doubt.

We just were lucky enough to receive a licence for a new operation in Barry's Bay, Ontario. This is a radio market that has never had a radio station. We're going to go in there. We're not going to make a lot of money. We're going to try to do the best we can, but we're going to be in there, putting some bodies in there, creating jobs, and creating a connection to the community, providing all the things that radio does best: community service, fundraising for the charities, and we're going to reach out to the artists in that community and promote them. That is a hard cost to us.

Now, the other thing is that we're going to be playing music. So guess what happens? The music industry is going to get some more money because we have this new undertaking in Barry's Bay. But that's the reality of small-market radio.

**Mr. John Rafferty:** I would say you know the technology just as well as Mr. Larche. That's a nice look at what small-market radio stations mean in this country.

I am trying to get a handle on how this works. It seems to me we are talking about a middleman here. We're talking about someone who is possibly making some money because...and they're not really earning it.

You know, coming from Ontario, I think that here we have a situation where we get our electric bill—

**The Acting Chair (Hon. Maxime Bernier):** Thank you.

**Mr. John Rafferty:** Oh, is my time up? I'm sorry.

You see, my days in talk radio....

**The Acting Chair (Hon. Maxime Bernier):** *Merci beaucoup.*

Mr. Fast, you have the floor.

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

I thought Mr. Rafferty was on the right track here.

Gentlemen, thank you for being here. I think you've have articulated what millions of consumers across Canada know, and that is when they buy a CD, and pay money for it, they should be entitled to transfer that to their iPod, their iPad, their desktop through Apple TV, or any other medium they are using for personal use, BlackBerrys or whatever. They understand that when they have paid for it once, they shouldn't repeatedly have to pay for it again, when they transfer it.

Somehow my Liberal, NDP, and Bloc friends don't get that. They want to impose on your industry a different standard...that our consumers understand. This act actually goes that extra step and says to consumers, "You know what you've been doing in the past anyways? You understand what's involved. We're going to actually make that legal so you can transfer from one medium to another, provided it is for your personal use."

Now, you were present when Mr. McTeague made a statement that I will try to quote exactly. He said there was "nothing for creators" in Bill C-32. I was here on Tuesday, two days ago. We had the Canadian recording industry represented here. They told us to please pass the bill, because it creates new protections for creators. They asked to please get this passed as quickly as possible.

They went further when Mr. Angus from the NDP tried to provoke them into making a big deal out of the removal of ephemeral rights, making sure there wasn't a duplication of payments to broadcasters. The representatives from the recording industry said, listen, our house is burning down. The solution is not ephemeral rights. There is a much bigger picture to it. They said that what is in the bill right now goes a long way to establishing more robust protection for creators.

There is a suggestion here that somehow creators are losing revenue. Yet some of the evidence we've heard is that most of the money that comes from reproduction payments doesn't go to the creators at all. Most of it goes to other parties. Can you comment?

• (1245)

**Mr. Ross Davies:** Thank you for your question.

I found it very interesting that two days ago, I think, or three days ago, when the music industry was up here, one of the artists they had—I think her name was Davies, actually, no relation to me—was not even aware of the mechanical right reproduction, that they were going to get some money. She didn't even know anything about it. It's not going down to those artists. What little there is in that is not even getting to them.

I'll remind you of another story I had with one of the big record guys. About a month ago, in Toronto, I ran into him and I was talking to him, and I said, what do you think about this? He said they really want the mechanical right reproduction. I said, well, wait a minute, here, we're supposed to be on the same side; do you know what it is? And he didn't know what it was.

I understand his motive: because the house is burning, get that. So actually, passing this bill was going to help these guys, and so the artists and the creators are getting paid for this thing, but they're not even.... This mechanical right reproduction, as like Mr. Larche said, is a cash grab. We're already paying the creators.

I note what Ms. Lavallée said about the creators. We totally agree that the creators should be paid. We are paying them already. We just object to the music industry going back two and three times. It's double-dipping here, ladies and gentlemen.

**Mr. Ed Fast:** Who do the reproduction payments go to? Are they not collected by collectives that then have their own administrative cost? They spin it off to the international conglomerates. Really, our artists aren't receiving much, if any, of these—

**Mr. Paul Larche:** Of the \$21 million in that reproduction cost, \$16 million of it goes to foreign record labels and foreign right holders. There's an overhead cost of over \$1 million. Really, what stays here in Canada is about \$3.5 million.

I know that what the honourable members are talking about here is trying to make sure that artists, particularly a lot of artists in their local communities in Canada, and in their markets, are being supported to get them going.

Well, the trickle-down to that artist is.... This isn't the right thing to do it. And as I said earlier, two wrongs don't make a right.

**Mr. Ross Davies:** Mr. Fast, we share the concerns of the record industry and the artists. Obviously, with our music-intensive radio stations, we need them, and we are paying them, as we said. But let's not also forget, we're paying over \$50 million every year directly to the Canadian artists, the creators—\$50 million every year. I don't believe any other country in the world has legislation that requires broadcasters to support their local cultural community like we have in Canada.

But you know what? That's what it is. We're doing it. We will continue to do it. That money is not going away, ladies and gentlemen. That money is staying.

• (1250)

**Mr. Ed Fast:** Let's go back to 2001, when you first started making these payments. How many collectives were in place at that time?

**Mr. Ross Davies:** I stand to be corrected, but I believe there were two at that time.

**Mr. Ed Fast:** How many are there now?

**Mr. Ross Davies:** Five.

**Mr. Ed Fast:** Five collectives. And in the future, you can assume there will be more and more coming to the table to essentially—I hate to use the word—"gouge" the industry for very little value, if any, for creators.

Am I correct in characterizing it that way?

**Mr. Paul Larche:** I can answer that.

As an owner-operator, I can tell you that when I bought the first radio station I owned, as I said, in 1975, we were paying 3.2% to SOCAN. It was one collective at the time. This past year, I paid just under 9% to all the various collectives. I've just about tripled in rights payments to the various collectives that have been added on and on.

**The Acting Chair (Hon. Maxime Bernier):** *Merci.* Thank you very much.

I will give the floor to Mr. Rodriguez.

[*Translation*]

**Mr. Pablo Rodriguez:** Thank you very much.

Mr. Davies, you talked about the administrative costs of the copyright collectives. Do you have a document that you can submit to show those costs? Do you have any supporting figures?

[*English*]

**Mr. Ross Davies:** I don't have it here, Mr. Rodriguez.

**Mr. Pablo Rodriguez:** Could you table it?

**Mr. Ross Davies:** I'm happy to have our people table it with you.

[*Translation*]

**Mr. Pablo Rodriguez:** You also said that most of the \$16 million goes to foreign record and publishing companies. First of all, since Canadian and Quebec artists also belong to those companies, some of the money stays here. So that's a somewhat simplistic proposition. Then I would put the ball back in your court by saying that you're the ones who play that music.

[*English*]

You decide to play that music. If the money is going out of the country, it's because you decide to play the music of American artists or those from other countries. I would say that if you played more Canadian stuff, there would be more money here. Isn't that a fact?

**Mr. Ross Davies:** I can't deny that this would happen. I think you see that in Quebec, with the 65% French vocal content that radio stations have in Quebec. Even though they may only be legislated to play 35% Canadian content, quite often the reality is that they're playing way more Canadian content in Quebec because of the 65% French vocal content.

[*Translation*]

**Mr. Pablo Rodriguez:** That does represent a lot of money.

Mr. Banville, I'm going to ask you a question, but I don't have a lot of time and the Chairman is strict.

You said you're like a perfume maker. So you need a lot of flowers, content. But those are things you have to pay for. You have to pay for those people so that they can continue growing flowers; otherwise they'll die.

**Mr. Guy Banville:** Absolutely, sir.

**Mr. Pablo Rodriguez:** But you want to pay less for the flowers.

**Mr. Guy Banville:** No, I believe Mr. Larche said that he was paying 3% at first and that he's now paying 9%. The trend isn't downward.

**Mr. Pablo Rodriguez:** For a music station, music represents approximately 80% of content. Do we agree on that?

**Mr. Guy Banville:** Mr. Rodriguez, it's as though you were telling me I have to pay for the tractor in the garden. I don't need a tractor.

**Mr. Pablo Rodriguez:** I'm not asking you to pay for the tractor. I'm asking you whether music in fact represents approximately 80% of content for a music station.

**Mr. Guy Banville:** No, that's declined considerably.

**Mr. Pablo Rodriguez:** So 75%?

**Mr. Guy Banville:** Wait, I'm going to tell you about a neighbour.

**Mr. Pablo Rodriguez:** I don't have a lot of time.

**Mr. Guy Banville:** The amount of music is declining, Mr. Rodriguez, and voice content is increasing.

**Mr. Pablo Rodriguez:** But that nevertheless represents the major portion.

**Mr. Guy Banville:** Music is increasingly expensive, and one day it will be out of reach. It's like gasoline. We're going to have to buy it by the glass.

**Mr. Pablo Rodriguez:** People listen to radio for the music, not for the advertising.

**Mr. Guy Banville:** No, they listen to their music on iTunes. Tuesday is a big day for iTunes.

**Mr. Pablo Rodriguez:** How do you make your money? You sell advertising because people listen to music.

**Mr. Guy Banville:** We don't just broadcast music; we also communicate.

I've had a career as a program director. I think it's a bit reductionist to say that radio merely broadcasts music. You're treating me somewhat like a music tap. It isn't just that. We communicate; we have programs and exclusive content.

**Mr. Pablo Rodriguez:** You communicate; that's fine, but it's mainly music that's broadcast at music stations. There's a portion of the royalties that you don't want to pay.

**Mr. Guy Banville:** We told you earlier: there are a lot of morning programs that don't even have any music.

**Mr. Pablo Rodriguez:** No, but I'm talking to you about music stations. You make money by selling advertising because people want to listen to music.

**Mr. Guy Banville:** They want to listen to our programs. The human voice has some role to play in this.

**The Acting Chair (Hon. Maxime Bernier):** Thank you, Mr. Rodriguez.

I'll now give the floor to Mr. Cardin.

[*English*]

Mr. Cardin, you have the floor.

• (1255)

[*Translation*]

**Mr. Serge Cardin:** Thank you, Mr. Chairman.

Good afternoon, gentlemen.

I've been listening to your arguments since 11 o'clock, particularly concerning this \$21 million reduction. You say you invest a lot in promotion and that that money goes directly to the artists, but supporting festivals and activities in that industry is part of your advertising, of your marketing. You have to invest in order to do your own marketing. You're not doing your own advertising on the radio. So I think it's absolutely normal for you to accept this. These are necessary costs in the case of your industry, like for any other industry that has to pay for advertising on the radio or elsewhere in order to attract a clientele. In that sense, let's say I find this argument somewhat... This is an investment you're making in order to attract your audience.

**Mr. Guy Banville:** But, Mr. Cardin, we're talking here about art and science. When we sponsor a concert, we accompany the artist. There's nevertheless a synergy. We're a link in the chain. We talked about perfume and all that, but in fact, there's a whole chain: the stores, television, the weeklies.

Mrs. Lavallée, you talked about the star system. We're a link in that system. We're not carrying all that on our shoulders. Whatever the case may be, the stations compete with each other. If I sponsor Lady Gaga at the Bell Centre, I may have an advantage over my competitor. From an artistic point of view, it's intellectually appropriate to promote new talents by providing them with promotional presentations, by inviting them to perform in the studio. In the case of Florence K, for example, I remember that she had done her own album and recorded it at the Lion d'Or. Couleur Jazz really helped her. And she also does advertising songs for us as well.

**Mr. Serge Cardin:** I'm happy to hear that, but the fact remains that you're saying that from a perspective of promotion for your station. You say that the artists are essential and that you accompany them, but they also have to earn a living. You're talking about taking away \$21 million from them overnight. I can understand the principle you're raising on this point, but, if you believe that artists are essential, it has to be possible to provide them with that sum. The artists return it to you, and not just through promotion. They also enable you to fill your time slots. Ultimately, it could be said that it's no longer applied that way, but that that amount is being paid in royalties.

**Mr. Guy Banville:** Mr. Cardin, we get along well with the artists, but we don't get along well with the mechanics.

**The Acting Chair (Hon. Maxime Bernier):** Thank you, Mr. Cardin.

I'm going to give the floor to Mr. Lake.

[English]

Mr. Lake, you have the floor.

**Mr. Mike Lake (Edmonton—Mill Woods—Beaumont, CPC):** Thank you, Mr. Chair.

You are doing a good job as the chair today. Thank you for filling in today.

I'm going to focus on Mr. Larche, because I don't have much time in this round.

In terms of process, in the past, you got an LP, and you played it. Your input was the music; your output was the music. Someone turns on the car radio or the radio at home and listens to the music. Now, processwise, you get a digital copy of something. How is the output now different than it was in the past?

**Mr. Paul Larche:** It's exactly the same. It's exactly the same transmitter. It's exactly the same process.

**Mr. Mike Lake:** The input is pretty much the same. It's a different format, obviously, but the fact is that your input music—a creation by a creator—is the same, right?

**Mr. Paul Larche:** I'm dating myself a little, but when I started out in radio, we played 45s. Often the 45s would get scratched, so we'd have to get the record company to send us another one, which they were always happy to do. Sometimes we'd get three or four of them.

We eventually started copying them onto what's called a "cart"; it's like an eight-track tape. So we were transferring them to tape to play on the air.

Again, there was never any rights issue at the time.

**Mr. Mike Lake:** As a customer—you're a customer as an industry—you purchase music. You pay for that music. And as a business, you play it. Your output is what you're able to put on the air, and it hasn't changed in any way.

• (1300)

**Mr. Paul Larche:** No, it hasn't.

**Mr. Mike Lake:** Yet you pay several times. Maybe walk us through the process that causes you to pay several times.

**Mr. Paul Larche:** Several rights holders have emerged over the last 10 or 11 years that keep adding to what was already being paid. You're right, the output has always been the same. As I said before, I was paying 3.2%, and now I'm paying just under 9% in various rights. Various collectives have come forward and have gone to the Copyright Board and have argued that they should be getting more money from the broadcasters, just as our colleagues are over here, and those fees have passed.

This particular one—the one we're talking about today that is in the copyright bill, Bill C-32, which we wholeheartedly believe in and think should pass—was recognizing an unfairness that wasn't there before.

**Mr. Mike Lake:** I don't know that someone listening to the radio at home would really know how that music gets from the creator to their radio and would understand these steps. It's easy to kind of slide a backdoor fee in there of \$21 million.

I'll just finish my thought on this and go back to my own business experience. I was a director of ticket sales for a hockey team. It would be like us charging a price for a ticket to go to the game but then having someone collect a fee on your way in...collect a fee back on your way into the bowl again to sit in your seat—a "seat access" fee or something like that.

**The Acting Chair (Hon. Maxime Bernier):** Thank you very much.

[*Translation*]

Thank you.

This brings the 16th meeting of the Legislative Committee on Bill C-32 to an end.

We will resume our business next week.

The meeting is adjourned.

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