



House of Commons  
CANADA

## Standing Committee on Canadian Heritage

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CHPC • NUMBER 009 • 3rd SESSION • 40th PARLIAMENT

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EVIDENCE

**Thursday, April 22, 2010**

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**Chair**

**Mr. Gary Schellenberger**



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•(1145)

[English]

**The Chair (Mr. Gary Schellenberger (Perth—Wellington, CPC)):** We'll call this shortened meeting to order.

Welcome to meeting nine of the Standing Committee on Canadian Heritage. Pursuant to Standing Order 108(2), this is a study on the emerging and digital media: opportunities and challenges.

I am going to introduce Mr. Graham Henderson, president of the Canadian Recording Industry Association. He will then introduce the rest of the presenters.

Because of the vote, our meeting is shortened to an hour and a quarter. If we can keep our comments as short as we can, we can allow more questions and answers. The question and answer period will be five minutes, and I will be strict on that.

Mr. Henderson, please....

Mr. Angus, you have a point of order?

**Mr. Charlie Angus (Timmins—James Bay, NDP):** Yes, Mr. Chair, I do have a point of order.

I know I am asking this on an odd day, because we have lost time, but I have been finding with these hearings that the five-minute rule we have is not very helpful in terms of allowing witnesses to respond and allowing us to set up a line of questioning. I feel we end up having to be rude when we ask people to stop because there are so many issues we're trying to deal with.

My understanding was that it had been a seven-minute rule. I know on other committees it is seven minutes. I just feel that in this hearing, if we are going to get the most out of our witnesses and create a conversation, five minutes does not do that.

**The Chair:** Mr. Angus, this committee has always had five minutes. The other day it became seven minutes in the first round because I did allow the questions to be answered.

Mr. Rodriguez keeps at me to stick to the five-minute rule, and I will do that again today because we are short. We have already lost a couple of minutes debating that. We're going to go ahead.

Mr. Henderson, please....

Madame Lavallée.

[Translation]

**Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert, BQ):** I'm very sorry for pressing this point, Mr. Chair, but if memory serves me well, we had seven minutes during the first round, and five

minutes during the second and any subsequent rounds. As I recall, that's how we proceeded.

[English]

**The Chair:** Okay.

Do you care?

**Mr. Dean Del Mastro (Peterborough, CPC):** Well, I was hoping the witnesses might stick to five-minute introductions.

As far as the question times, I don't care if it's five or seven. As long as it's equitable to everybody, we're good with that.

**The Chair:** I'll be very fair. I think I was the last time. I've never really cut anyone off from replying.

I just ask my questioners not to push it right to the last minute.

Mr. Henderson, please.

**Mr. Graham Henderson (President, Canadian Recording Industry Association):** I am Graham Henderson, and I would like to introduce Darlene Gilliland, who is the director of business development for Universal Music Canada. Beside her is Charlie Millar, the director of digital business development for Warner Music. Beside him is Loreena McKennitt, who I am sure is known to all of you, a world famous artist and also an important owner of a very important Canadian independent label.

Not with us today is Grant Dexter, who is stuck in Europe because of volcanic ash. I think it is important that we make that point. Just because he is in the music industry, it doesn't mean it was volcanic "hash" that kept him there.

That was just my little music industry opening joke.

So who am I? I am the president of the Recording Industry Association, but before that I worked for about 20 years with artists, labels, songwriters, performers of all stripes, major labels, independent labels. I'm married to a recording artist.

During my last five years at Universal, I was also the head of the e-commerce unit.

Today what I want to do is introduce you to what I call "digital doers". These are people who are on the frontier of the so-called digital revolution, people who live it and breathe it. We have been for years, I think, unjustly run down by a lot of people, often insulted, misrepresented as to what it is that we do, but today you get to meet us. And I think you're going to find that we are very different from what you may have read about us.

I am going to start by offering a proposition, and the proposition is that a society should be judged—among other things, but could be judged—by how it treats its artists, and I think this committee in particular would be concerned about that.

Now, I didn't say that. That was said by Jaron Lanier. I've brought his book in here, *You Are Not a Gadget*. Jaron is a computer scientist, a composer, a visual artist. He's an author, and he is credited with coining the term "virtual reality". He lives and breathes Silicon Valley. He has been selected as one of the top 100 public intellectuals. He has been put on the *Encyclopedia Britannica's* list of history's 300 greatest inventors. So he is not a man to be trifled with.

I want to start with a quote. This is what he says:

If you want to know what's really going on in a society or ideology, follow the money. If money is flowing to advertising instead of musicians, journalists, and artists, then a society is more concerned with manipulation than truth or beauty. If content is worthless, then people will start to become empty-headed and contentless. [This] has resulted in a new kind of social contract. The basic idea of this contract is that authors, journalists, musicians, and artists are encouraged to treat the fruits of their intellects and imaginations as fragments to be given without pay....Reciprocity takes the form of self-promotion. Culture is to become precisely nothing but advertising.

We're well over a decade into this utopia of demonetized sharing and almost everyone who does the kind of work that has been collectivized online is getting poorer. There are only a tiny handful of writers or musicians who actually make a living in the new utopia, for instance.

He says that everyone is "becoming more like a peasant every day", and that "it's going to get worse".

Now, you have heard a lot in this committee from breathless boosters of everything digital. And you know what? We, in our own way, are breathless boosters of things digital, because digital offers an enormous opportunity for our creators and for us. But it is a double-edged sword. We can make no mistake about that.

I am going to suggest to you that we always have to temper our enthusiasm with caution and a judicious skepticism, which seems to be almost completely absent in today's commentary. Instead of simply asking, "How fast can this thing go, and how much can I put on it?", we should also be asking, "What are the consequences?"

Because this is a cultural committee, I am going to refer back to one of the touchstones of my life—I am an English literature student—Mary Shelley. Her book *Frankenstein* was about what happens when science or technology is introduced into society without thinking through the consequences.

Now, because we're concerned about consequences, it doesn't mean we're anti-tech. Quite the contrary; it means, I think, that we are cautious and judicious, and I think as a society we should be.

So let's talk a little bit about Canada and digital innovation. This committee was told last month that everything in digital Canada was pretty darn good. The gist of this message was that there was no need for action by Parliament.

Nothing, however, could be further from the truth.

• (1150)

The people who've been spinning this "Don't worry, be happy" line have now been espousing it for almost a decade. Meanwhile, we have fallen behind, from a digital innovator to a digital follower.

The view from academia, I'm afraid, is a little myopic. The Conference Board of Canada has recently given Canada a D in innovation.

You were given specific examples of how artists were supposed to have succeeded by giving their music away. One of them was Radiohead, another one was Trent Reznor of Nine Inch Nails. But what you weren't told was what Trent Reznor said *after* his experiment. And by the way, a lot of what he says is unprintable:

This is the thing I learned from Radiohead. I don't want to ask a fan what they think my music is worth.

Then he gives an example of saying to an imagined fan, "Hey, I just worked for a year on this thing," and the fan's response of, "Well, I think it's worth ten cents."

Trent's response to that is pretty much unprintable.

He goes on to say this:

I naively thought at that time that if you gave the public the choice of do the right thing or not, I thought people would actually do it. Five bucks for an album? And I found that most people, no, they really don't want to do that. I think I laughed about that and got attacked by everybody for whining about wanting to get paid for work that I did. The steps we've taken since then, I think, have gotten closer to something that approaches a business model. It doesn't work for bands that nobody knows yet.

This committee also heard last month that smaller Canadian players are finding success in new markets like Facebook applications.

Well, the fact is that the only Canadian company in Facebook's list of top 15 apps is Research in Motion. That is not a small company.

You were told about a Canadian company called Polar Mobile, which endeavours to supply apps to the iPhone market.

You were told about business models that were predicated on free culture.

But what you weren't told was that the CEO of Polar Mobile, Kunal Gupta, concluded that the philosophy of giving content away for free is simply not working for him.

You were also told that BitTorrent sites and other peer-to-peer technologies are "finding increasing favour with legitimate businesses". Indeed, there are uses that we have for them. But what you weren't told—and what is patently obvious, I should have thought, to everyone outside the ivory tower, but even within the ivory tower—is this: the overwhelming majority of content on BitTorrent sites is, to put it frankly, stolen.

This was the result of a recent study supervised by Professor Ed Felten at Princeton—no real friend of the music industry—who found that 99% of the content shared over BitTorrent is infringing.

The problem is that a culture built on stealing cultural assets cannibalizes itself. Creative industries wither, and countries like Canada end up with a D in innovation.

I'm going to leave you with a little meditation on this by another important author. If you are going to make policy on this topic, you need to read this book. If you are going to make policy on this issue, you also need to read Debora Spar's book, *Ruling The Waves: From the Compass to the Internet, a History of Business and Politics along the Technological Frontier*. She says:

If we view cyberspace from history...[we see that] once the technological frontier has moved beyond a certain point, power—and profits—seem to shift away from those who break rules and back to those who make them.... [The establishment of these rules] is a crucial stage along the technological frontier. It clarifies relations that often will have been murky to this point and allows successful pioneers to build their firms and markets in a more stable, less chaotic environment. It is a stage that is absolutely critical for a technology with commercial intent.

With that, I will turn it over to my colleagues.

Before I do that, let me just say that we are asking this committee to support the sort of rules-based environment that practically everybody else in the world has. It's a rules-based environment that will benefit creators—such as Loreena—investors in the business community—such as us—and you know what? It will even benefit consumers. Consumers in Canada just do not have the same choices that they do elsewhere.

Darlene.

• (1155)

**Ms. Darlene Gilliland (Director, Digital Business Development, Universal Music Canada):** My name is Darlene Gilliland. I am the director of digital business development for Universal Music Canada. I am very grateful to the committee for the opportunity to speak to you today.

I plan to cover three topics: who Universal is and how we engage with the opportunities that new media presents to grow our business in Canada; how the challenges presented by the lack of a predictable, rules-based climate for investment in new media limit the growth of that business; and how government can help.

To start, Universal Music is Canada's largest music company. We sign artists to recorded music deals. We also provide distribution for independent labels in both English Canada and in Quebec. We discover artists, we create records with them, we market, distribute, and promote them and their recordings. In short, we create music and we build careers.

Our Canadian artists include Bryan Adams, Diana Krall, Shania Twain, Tragically Hip, and new artists like Hedley and Stereos. We also market and distribute international stars like U2, Elton John, and the Black Eyed Peas here in Canada. We are music people, absolutely, but we are also business people and investors in Canadian talent and technology.

My role at the company in digital business development and the team I work with exist because Universal sees the power in new media to create revenue streams for our artists. In my role I am tasked with strategically implementing new business models that are capable of generating sustainable long-term revenue and delivering a legal music experience that fans can enjoy.

This is not the old days. We are not sitting back and wishing for the days before the Internet. It's quite the opposite; we are heavily engaged in reorienting our business against incredible challenges in the conditions in Canada.

I'll mention a couple of the things we do. First, we license our music and our videos in legal ways to technology companies, big and small broadcasters, mobile carriers, and websites here in Canada and outside of Canada as well. When I talk about licensing deals, what I mean by that is a deal that makes music legally available. You can listen to music in your iPhone application through deals that we do. You can buy an MP3 download over your cellphone after you hear a great song on the radio. You can watch a video on your home computer. That's what we do. All of these can be legally licensed uses that compensate the creator and bring the music to the fan, where they want to hear it.

The companies we work with to build those models understand a couple of things. They know that music is valuable to their consumers, they know that creators must be paid for their work, and they know that working with us directly helps them build value for their business.

I also want to point out that we do use social media in technology constantly as part of our marketing and promotion efforts to reach our fans. Twitter, Facebook, SMS, iPhone applications—all the new technologies are key elements of our marketing strategies. They may not be our revenue-driving strategies at the moment, but they're key in marketing.

As one interesting example, if anyone is an active Twitter user, we actually worked with our Canadian artist, K'naan, to create new lyrics for one of his songs using Twitter "tweets" from fans. K'naan then recorded a song made up entirely of those lyrics, and we were recognized for that by *Wired* magazine. So we're there.

We're also diversifying. We create and run artist websites and online fan clubs. We design added-value music products, VIP merchandise, and concert tickets.

In short, we are not just sitting around on our hands. People like me did not even work in the music industry in the good old days. We are not running from this new reality, we are doing our very best to embrace it, to work hard on creating business models, and to provide value for everyone in the new media community. That's creators, that's technology companies, and that's consumers. We don't believe these things are mutually exclusive.

Despite our efforts, despite managing to grow our digital business slightly every year, our digital marketplace in Canada is on track to cap out well below our market potential and well below the level that other developed markets will reach. A few numbers are helpful here. On an industry-wide basis, as reported by the IFPI, in the world of physical CDs, Canada represented 10% of U.S. sales. In the digital world we're 4%. This is a substantial difference. I think it helps illustrate this point very well.

•(1200)

We attribute it in large part to the lack of a robust copyright regime and protection for creators' works in our country, especially when we stack Canada up beside our international peers. Our peers have had these protections for a long time.

When technology companies see the piracy that flourishes here in Canada and the uncertainty in our laws, they are apt to invest elsewhere, and they do. The result is that Canadian creators and consumers miss out on innovative music services that are launching elsewhere, including the U.K., France, Sweden, and the United States. We miss out on the jobs, revenue, taxes, and consumer choice that come with them.

Government can help us in two key ways: first, we need government support in new media, as in any industry, to create a rules-based and predictable environment in which business can invest, and in which investments made today by the music industry can continue into the future; second, we need government support for and belief in the fact that compensation for artists and the shifting terrain of new media are not fundamentally incompatible. We believe we can build that market, a market in which technology thrives and creators can earn a living, with the appropriate protections in place.

Universal invests in music and in Canadian talent and culture, and our government invests in music and in Canadian talent and culture, but our laws create a climate in which the product of our investment competes with "free".

Perhaps over the years this issue has seemed complicated; it doesn't need to be. We can't compete without government assistance in making sure creators' work product receives the same level of protection through copyright as a technology company receives through the patent on the touch screen on their phone.

All intellectual property industries depend on mechanisms put in place by government to foster innovation, encourage investment, and protect creators. We are no different.

We are not asking government to take us back to the old days. We're not giving up here on our efforts to build a market—we're up for the challenge—but we're here asking for your help with that.

Thank you very much.

**The Chair:** Thank you.

Go ahead, Mr. Millar, please.

**Mr. Charlie Millar (Director, Digital Business Development, Warner Music Canada):** Thank you.

My name is Charlie Millar. I work as a director of digital development as well.

I've been asked to present to you today the following: what I do, and how what I do is linked to digital media and emerging technology. Specifically, I will address my background, my reasons for entering the content business, my role, and the reason for my attendance today. Last, I'll provide a summary of how government can support my role from a digital business development perspective.

Prior to joining Warner Music Canada, I worked as an economic consultant for KPMG. My focus was technology and pharmaceutical brands. After KPMG, I worked for a marketing company that specialized in selling and designing consumer brand marketing programs. One of our clients was Telus. I actually launched the Internet with Telus, out west, about six years ago now.

What were my reasons for entering the content business? Well, playing music in a number of small bands over the years, it was evident...of the vital role that music, or content, played in the development of new technology and the next generation of music monetization models. Therefore, with a background in economics and with a love of music, it was logical that I would join a record label and work in digital music.

My role at Warner Music Canada is to integrate into the company digital commerce opportunities. I also work with Canadian businesses to educate them and to license content to these businesses. I collaborate with them to ensure a profitable and sustainable business model for the distribution of our artists' content. Specifically, I work with a tremendous number of software companies to ensure that they're involved in licensing content and are developing business models that are sustainable for the artists' content in the long run and are sustainable for their own profitability. This is very important.

Finally, I develop relationships with Internet service providers—Telus, Rogers, and Bell—original equipment manufacturers—RIM, HTC, and LG—and software developers. These are key future business partners for us. These partners will support our acts internationally and domestically in Canada and cannot be denied. Specifically, these companies are the future account base, and together we are going to create new ways for our labels to monetize their content. It's very exciting. These services will be essential in the digital generation of the music business.

I'll now outline my reason for attending this committee meeting.

Warner Music is a significant player in the industry. It has committed national commercial interests and has consistently outpaced the recorded music industry in digital revenue. We have three basic priorities, and I want to explain these to you so that you get a sense of where we see the priorities in the digital music space.

We are extending our leadership in the core download business. You may see this as the iTunes business, but primarily this is the four Ps of marketing we focus on: product, price, promotion, and placement.

We are recalibrating the balance between promotional and commercial within social media. This is very interesting. We have relationships with YouTube. We have relationships with ad-supported networks. What we're doing is removing startup misconceptions around "free" and engaging businesses in sustainable business models. Ad-supported network models right now are at an emerging business level, not sustainable.

We are developing and cultivating new business models by targeting opportunities around scale. What I mean by this is that we're engaging networks and OEMs around bundling content services with device sales and connectivity.

To back up a little bit, the digital market has three main consumer segments. We have done a lot of U.S. research to support these, which I'll use as a proxy for the Canadian consumer. However, we are actually working with CRIA to develop our own consumer research.

The first consumer segment is the traditional listener. You would see this as a radio or CD listener. They "lean back": they're passive, they listen to the radio, they put the CD in. This segment requires targeted product offerings. The CD-centrics require digital conversion vehicles, such as gift cards.

The second segment is the digital collector. They are very "lean forward": they're on their computers, they're multi-screen, they're mobile, they're iTunes users. For this segment we're looking at product management—again, the four Ps of marketing help in this area, and that's where we're driving our attention—but also at service and product innovation, specifically in subscription services. You hear the words "digital cloud" these days.

• (1205)

The third and last segment are the pirates. They are "lean forward": they represent a cross-section of all behaviours. This requires implementation of ubiquitous deterrent measures from government and network-based controls.

In summary, how can government help?

From a sales perspective, from a digital business development perspective, government can help by assistance with deterring pirate lean forward behaviour; two, implementing ubiquitous government deterrent measures so that Canada and all its provinces can become an environment for digital entrepreneurship and service; and specifically, creating a location for foreign direct investment and/or domestic next-generation technology, to be done in a way that is, I hope, export ready.

From a free market perspective, industry is willing and able to sell Canada to the world, but it is essential for government to set up appropriate ground rules for the digital music business to be successful.

Thank you very much for your time.

• (1210)

**The Chair:** Thank you.

Ms. McKennitt, please.

**Ms. Loreena McKennitt (President, Quinlan Road Limited):** I'd like to thank the committee for the opportunity to appear today,

and to acknowledge the daunting task facing its members as it makes its way through this process.

As some of you may know, I am a singer-composer and the sole owner of my one-artist record label, Quinlan Road, which encompasses both audio and visual production companies.

I have often been characterized as one of the early artists who went independent, as I began my career in 1985 busking on the streets of Toronto. After five years of a do-it-yourself approach, I signed a licensing agreement and now have a mixture of licensing and distribution deals around the world with a variety of companies. These have realized sales of over 13 million recordings. Currently, not only do I continue to function as an artist, but I also manage both the creative and the business sides of the operations of Quinlan Road on a daily basis and on an international level.

I appear today out of concern for present and future creators of many disciplines and out of concern for their respective industry infrastructures.

I have been fortunate throughout my 25-year career to own and control all aspects of my recordings and image rights. Subsequently, my revenue sources exist not only through CD sales or digital sales, but through performance revenues and licences. Because of the way I have invested in my career and my business, it has allowed me to own my masters and directly license them for use in film, theatre, dance, or other kinds of media. At the same time, this does not prevent me from granting permissions for no fee in selective circumstances.

It is very difficult to look to the future in new digital technology without establishing a firm consensus on the real value of intellectual property and who actually owns it. For years it has been clearly established and accepted that the individuals who create it own it, and that the medium in which it is experienced does not diminish that principle.

That point brings me to the novel and newly crafted term of "user rights".

It is my view that we should be extremely careful with this kind of language, because it isn't a matter of user rights but rather user permissions. Once we dispel the notion that in this respect there is no such thing as user rights, or that people own the music in a CD or a digital download, we can cease worrying about how to balance these rights. Many things the public wishes to do with what they purchase can all be accomplished within the framework of permissions and personal use.

In my company we confront the new realities every day. We have been hard at work trying to offer new products in new ways and to fully leverage the new technologies. But I am here to tell you that making predictions and investments is impossible without some stability in the fundamental recognition and protection of intellectual property.

It is not just my own revenue stream that is affected. It's the jobs of many talented people I have employed over the years. I would like to give you a sample.

They include many recording studios that no longer exist; engineers who specialize in recording classical or acoustic instruments; technicians, their suppliers, and their administrative staff; graphic artists; photographers; makeup artists; mastering companies; CD manufacturers, such as Americ Disc in Quebec; retailers large and small, many now defunct, such as Sam the Record Man; printers, such as the Stratford Beacon Herald; publicists; travel agents; airlines; musical equipment suppliers; insurance companies; local media advertising outlets; caterers; and on it goes.

I know there are those who advocate a proposed business model that would see artists touring all the time. Not only is this not always viable from a monetary sense—or from a human sense, once people start having families—but for many artists such as myself, touring was always a loss leader in order to promote my recordings. Now parts of the touring industry are starting to see the corrosion of their businesses. This has impacted venues, promoters, their local crews, and popcorn sellers, all of whom are now struggling to stay alive.

As well, one should not be misled by equating fame with business viability, as there are many famous people through the new technologies who are still unable to make a viable living. This can hardly be viewed as a business model.

It may be fashionable in some corners to say the arts don't really provide much employment or revenue to society, but when I look at my small company, which once had 15 employees and now has five, and then extrapolate that to the whole industry, the scope of this calamity that presently exists cannot be underestimated.

How has this devastation been accomplished? Although some folks would like you to think otherwise, it is not because, like some sort of buggy whip, copyright has become obsolete and we owners of content property should just “get over it”. Although it might be true that we, as creators, have been slow to enforce our ownership rights, we have counted on our representative organizations, the legal system, and policy-makers to protect our fundamental rights and ensure that our international obligations in this regard are upheld.

• (1215)

Regardless of the details of any regulation, as the law exists now, everything recorded is copyrighted by the creator of that work and is not someone else's property unless licensed or authorized in some way by the creator. Others cannot claim it and watch us scramble to claw it back.

Let me give you a brief snapshot of my own situation with respect to peer-to-peer sites.

You may have a copy of a site called isoHunt. It promotes a full inventory of my audio and video catalogue. This site operates as a

bridge to those who want to download my music for free. As many of you will know, the business model of many websites is to offer content that costs little or nothing to them, but that has value to the public, so they can then sell the advertising real estate on the side.

Having been driven over the Canadian border by judgments against them in the U.S., isoHunt has recently brought a lawsuit in Canada asking for their “aiding and abetting of piracy” to be declared legal here. In the current vacuum of uncertainty over copyright reform, many operators are staking claim to the territory that simply is not theirs.

The second site I would like to mention is Mininova. When this site was brought to my attention last November, they too carried my full audio and video catalogue. This site was very helpful, because it proudly boasted a calculator installed for the purposes of advertising dollars, which indicated that my full catalogue of over ten titles had been downloaded over 4,100 times in the previous 53 days. Of course, this does not address single album downloads, or the rest of the year, or the previous years, nor any of the other sites undertaking this practice in Canada or around the world.

It is interesting to note that at the end of November, the Mininova site was forced by a decision of the court of Utrecht to completely alter their business model to feature only those creators who deliberately wished their content distributed for no charge, or, as others would put it, for free. Today, the search for Loreena McKennitt will bring up several album titles with the corresponding links to Amazon, where one might purchase in the legitimate way.

So you see that progress can be made. It is essential that Canada not be considered a pirate nation when it comes to both regulating and realizing the full advantage of all the advantages of new media. It cannot be right that what is produced after years of training and large investments by individuals, businesses, and governments will suddenly be devalued by a change in the rules.

Nor must we allow clever manipulation of language and media to create confusion in the minds of the public as to what the real issues are, especially by those who have hidden vested interests or who operate in theory and not in the reality of actual business.

The watchdogs must be able to see through the smokescreen created by those who operate not by permission, not even by forgiveness, but from a strategy of taking what they can get away with before someone gives notice and takes them down.



In closing, I would like once again to thank this committee for all their hard work and due diligence. I would welcome responding to any questions.

**Mr. Graham Henderson:** Mr. Chairman, I'd like to conclude for our panel with the words of K'naan, who is one of, I think, our musical heroes, perhaps one of the world's musical heroes right now. I don't know if you saw that stirring performance of *Wavin' Flag* on the Junos, but I know it made the hair stand up on the back of my neck.

He says:

I am proud to be a part of the Young Artists for Haiti fund-raising effort. I am inspired by the performances of my fellow artists on *Wavin' Flag*, but I am saddened to think that some people might download this song from pirate sites rather than pay a few cents for a great cause. We need a way to end this. We need copyright reform now.

Thank you.

**The Chair:** Thank you.

Our first questioner will be Mr. Rodriguez, please.

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

[*Translation*]

I want to thank our witnesses for coming here today.

We talk a lot about opportunities, challenges and problems, but I do not get the feeling that any concrete solutions are being put forward, because all of this seems rather complicated. Digital technology opens up a great many borders. It is far easier for our artists' work to be showcased just about everywhere, on multiple platforms and in social media. However, at the same time, it is much more difficult to collect royalties.

Piracy and illegal downloading are issues with which we must contend and to which there are still no concrete solutions at this time. I'm not certain that the technology exists today to counter these problems, or whether we need to push for legislative changes. I listened to your comments on piracy problems and I totally agree with what you said. In terms of the Internet, what steps could be taken to address this problem? How can we deal with the downloading issue with the means available to us today?

• (1220)

[*English*]

**Mr. Graham Henderson:** I believe it starts with a very simple, straightforward baseline. We have to draw a little box around what's legal and what's illegal and send clear messages to the people of Canada about what's right and what's wrong.

I've always said about the people of Canada that I think we all think of ourselves as law-abiding citizens. The problem is that we have no laws to abide by. Now, lots of other countries—France in particular, South Korea, Sweden, England—are taking very aggressive stances to protect their creators. France is perhaps in the lead. We're nowhere near taking the steps that France has taken to protect its creative class and, in fact, its business community. But I would argue that to simply, as a very baseline, implement the intellectual property treaties as contemplated by, for example, Bill C-61, or before that Bill C-60, would be the first step on that road.

[*Translation*]

**Mr. Pablo Rodriguez:** So then, the first step is the World Intellectual Property Organization.

[*English*]

That's the first step. What comes after?

**Mr. Graham Henderson:** Go ahead, please, Charlie.

**Mr. Pablo Rodriguez:** I'm asking you to help me to help you.

**Mr. Graham Henderson:** Yes.

Just before I turn to Charlie, one thing I will say is this: Does that make a difference? It absolutely makes a difference.

I was just looking at some statistics that are about to be published by the IFPI, which show that there's a return to growth in the music markets in South Korea, Sweden, the U.K., and 12 other countries. That is directly linked to improved legal regimes.

On the other hand, Canada, along with some other countries, has experienced the steepest declines.

So there is a direct connection between an improved legal regime in investment and in purchasing.

Go ahead, Charlie.

**Mr. Charlie Millar:** I brought with me a small outline from an international strategy document. From an international perspective, Warner Music Group follows three basic principles that support our strategy, which I explained previously in the meeting.

There are three strategies. I'll start from the bottom up. There is an evolving connectivity system in the world. There are evolving connectivity drivers from a technological perspective. This means there's a trend toward multi-screen connectivity. So aside from the government angle, there is the network operator aspect. This is where there's connectivity; we're working with connectivity multi-screen approaches to access scale and access consumers.

The second thing is there is impending competition to migrate to the digital content cloud. So aside from government, we're working this channel to bring these companies, which already exist in the U. S. and in Europe, into Canada to take advantage of these new services. They don't exist right now in Canada.

The third one is that there is an improving political environment internationally—I can reference digital Britain—that our company is looking to as one of the three elements or three trends that are essential in supporting our digital priorities.

In summary, you have the government requirements on one hand, which Graham has spoken about, but we have our tactics in place to address the new digital technologies. Those are already there.

**The Chair:** That's the end of that particular questioning.

Remember, you're the one who keeps telling me to stay on five minutes.

**Mr. Pablo Rodriguez:** But you said seven minutes.

**The Chair:** No, no, I said that last time I did that. I'm not doing it this time right yet.

**Mr. Pablo Rodriguez:** Sorry, I thought you said seven minutes today.

**The Chair:** Madame Lavallée.

[*Translation*]

**Mrs. Carole Lavallée:** It is refreshing to hear you, the artists, talk about the problems that you are encountering with the new digital technologies. In truth, I see these more as challenges than as problems.

The members of the Bloc Québécois appreciate the position in which you find yourselves. In fact, we agree with almost all of the comments that you made. We hold to three principles when addressing these issues. You state, among other things, that music is not free, that listening to music amounts to consuming a good, and that the person who created the music is entitled to be paid. The Bloc Québécois does not dispute these facts in the least.

Regarding the transition to digital technology, we hold to three principles. Firstly, the creative process must be promoted and supported and artists must be remunerated for their work. Secondly, efforts must be made to distribute the work of artists. Professional artists must have even more opportunities to showcase their work on various stages. Finally, all forms of piracy must be discouraged.

In order to accomplish these goals, we need to consider a number of solutions. You have not said much about these solutions and I'd like to hear from you. First of all, the lines between telecommunications and broadcasting are becoming increasingly blurred. We need to take a serious look at merging the telecommunications and broadcasting acts, for instance, to address the problem of wireless phones. Secondly—I don't know if you are familiar with the Copyright Act—we have something called the notice and notice system. Thirdly, we also have the three-strikes law. Lastly, there is the matter of royalties to be paid for MP3 and iPod music downloads.

I'd like to hear what you think about the solutions that have been proposed and widely discussed.

The first speaker can lead off.

•(1225)

[*English*]

**Mr. Graham Henderson:** I think—if I understood it—there's the principle that music's not free, the principle that we need to encourage more opportunities, so create more new avenues. It's not just enough to create; we have to be worried about diffusion and how to get our artists' voices out in more and varied ways. The final one is how to discourage piracy.

I think this is a very clever encapsulation of the multi-faceted approach that I'm hearing from this panel, that we work on trying to achieve all of those.

What are the concrete solutions? They're twofold. No one ever, in our world, said that by passing a law we were going to change consumer behaviour overnight and turn people from taking things. People who think of music in Canada think “take”, they don't necessarily think “buy”. We don't believe there's going to be an overnight conversion. This could take a long time. We think it's a

market that's worth fighting for, but we have to establish those baselines.

As for some of the techniques that are available, as you know, the French are experimenting with a graduated response regime. That's being considered in a lot of other jurisdictions. Practically everything you read about those regimes in the media is incorrect. They're filled with safeguards. There's such a thing as notice and notice. These are technicalities.

Then there is, of course, the question of levies.

[*Translation*]

**Mrs. Carole Lavallée:** Personally, which one of these solutions would you prefer?

[*English*]

**Mr. Graham Henderson:** Well, I think we have to be provided with a framework. And I think that's what the panellists were saying, that a rules-based framework will help us to build a legitimate digital marketplace.

[*Translation*]

**Mrs. Carole Lavallée:** So then, you will not commit one way or the other.

[*English*]

**Mr. Graham Henderson:** I might not have understood that question.

[*Translation*]

**Mrs. Carole Lavallée:** You are not prepared to say which of these solutions you prefer or which one is the best. What is it you want?

[*English*]

**Mr. Graham Henderson:** One solution?

Perhaps I'm not expressing myself well enough, but I think the best solution is to implement a set of laws or rules that will provide an environment that will encourage creation and investment. That's what the intellectual property organizations' treaties were designed to do. When you see them implemented, you very clearly see a migration from illegal back to legal. One of the principal reasons you see this is that not only is there someone saying you can't do this, but all of a sudden there is an interest from investors in investing in that marketplace and developing legal alternatives that are attractive to the consumer.

It's like a carrot and a stick: you have to have great carrots—lots of alternatives.

•(1230)

[*Translation*]

**Mrs. Carole Lavallée:** Before we go to Ms. McKennitt...

[*English*]

**The Chair:** Mr. Angus, please.

**Mrs. Carole Lavallée:** My time is up?

How much is your book?

**A voice:** This one?

**Mrs. Carole Lavallée:** I have a gift to buy.

**Mr. Charlie Angus:** I'll lend you my copy...[Inaudible—Editor].

**The Chair:** Go ahead, Mr. Angus.

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

It's great that you're here. I'm very sorry this is just five minutes. I think we all need to go out for a beer, and we can talk into the night about this.

Mr. Millar, what's a "ubiquitous deterrent measure"? Can you give me an example?

**Mr. Charlie Millar:** That's a great question. Ubiquitous, for me, is one that encompasses all the behaviour types, so—

**Mr. Charlie Angus:** But you guys are talking about rules-based. Is that notice and takedown? Is that graduated three strikes? Is that what you're...? Give us something.

**Mr. Charlie Millar:** These are all very good examples. I'd look to Graham to provide substantial evidence on the copyright legislation part.

But I do want to emphasize—it goes a bit to the previous question—that I mentioned two elements.

**Mr. Charlie Angus:** Sorry, I don't want to be rude, but I have only the five minutes. I haven't heard what they are, so I'd like to know.

**Mr. Graham Henderson:** If you're asking about notice and notice, do we like notice and notice? Notice and notice is where it's determined that somebody has downloaded something that they shouldn't have. I don't know if everybody understands how that works. We send a notice to the ISP, the ISP sends a notice to the consumer, and that's the end of it. There are no consequences.

There are countries, such as France, that are examining whether or not consequences should be attached to a failure to accept or to modify one's behaviour based on the notice.

Do I like notice and notice regimes? I think they could be a fantastic educational tool.

Are they the solution? Do they work? Practice has shown that they simply don't work.

**Mr. Charlie Angus:** So you support notice and takedown.

**Mr. Graham Henderson:** Notice and takedown is for an entirely different problem. Notice and takedown is designed to solve a problem where somebody has accessed somebody else's work.

**Mr. Charlie Angus:** For example, Beyoncé was just targeted by her own record company because she put up videos on YouTube to promote them. That's notice and takedown.

I'm just trying to get a sense here, because we're talking about carrots. I think the carrots are amazing, but it's the sticks that I think you guys have hurt your reputation with. I mean, I know you came and said you had a bad rap. But when I hear about piracy, you went after Grokster; I think it was \$150,000 a song. Grokster was a big peer-to-peer. But it was the high-profile cases such as Jammie Rasset. How many times have you taken her to court? You got her for 24 songs.

Is the stick to be applied to the pirates, or does CRIA support what RIAA has done in the United States, which is to sue the fans?

**Mr. Graham Henderson:** Well, let's just deal with suing fans. That is over. And—I might point out—in Canada we never sued a fan.

Not that we...

No, please, Charlie, let me finish.

Not that we ever got a single iota of credit for that.

**Mr. Charlie Angus:** But it was also the legal regime here.

**Mr. Graham Henderson:** No—

**Mr. Charlie Angus:** Was that a mistake?

I'm really interested in how we move forward, and I'm really glad you brought *You Are Not a Gadget*. But when we talk about piracy, and yet you have this example of the single mother in Minnesota... She's the poster girl all across the world. Not Grokster, and not isoHunt; she's the one.

So how do we move forward? If we're going to not sue, how do we....?

**Mr. Graham Henderson:** What we have to do is we have to take down the bad actors.

**Mr. Charlie Angus:** Fair enough.

**Mr. Graham Henderson:** Darlene wants to add something.

**Mr. Charlie Angus:** Okay.

**Ms. Darlene Gilliland:** I think as part of what you say, some of these actions have come out of frustration with the legal environment. I think we are coming here speaking as business people. We are trying to build an environment in which we have a chance to build something that people want to come to. We want to work with the fans to give them the kind of music they want to hear.

**Mr. Charlie Angus:** Totally.

**Ms. Darlene Gilliland:** That's very much our focus.

**Mr. Charlie Angus:** You mentioned K'naan. I saw that phenomenal performance, one of the most inspiring things I've ever seen.

You talk about artists being compensated. The same weekend, we had Divine Brown, the Trews, Carole Pope, Eva Avila, Rex Goudie, the Trailer Park Boys, and Marie Denise Pelletier coming out to support the iPod levy so that artists get compensated. Yet CRIA intervened against that.

Why are you against artists getting compensated through the iPod levy?

**Mr. Graham Henderson:** We're actually not against artists getting compensated by levies, but what I'll say about the levy is this: our goal is to establish—and I think that should become apparent from this—a thriving, legitimate digital music market in Canada in which everybody can be fairly compensated. We believe no levy can ever replace such a market.

•(1235)

**Mr. Charlie Angus:** No, but the levy doesn't replace the market, the levy was a revenue stream. You guys stepped in to go against that.

**Mr. Graham Henderson:** The reason we did—and now, Charlie, you're going back to a little bit of ancient history, under the old act, not about your own bill—is that we do not support levies that have the effect of laundering illegally acquired music into legal copies—

**Mr. Charlie Angus:** I see.

**Mr. Graham Henderson:** —which would have the effect of destroying our marketplace.

**Mr. Charlie Angus:** But the levy is in place to ensure that the artists are compensated. It's a long-standing thing. So you're against that then.

**The Chair:** We have to move on right now.

We're moving to Mr. Del Mastro.

**Mr. Dean Del Mastro:** Thank you, Mr. Chair.

Thanks to our witnesses.

Ms. McKennitt and Mr. Henderson, it's wonderful to see you again.

Mr. Millar and Ms. Gilliland, welcome to the committee. It's nice to hear from you.

I'm going to start with you, Graham. You haven't got that much space between your head and the ceiling, so when I ask you this question, don't rocket too hard out of the chair.

We have heard from guests before this committee—such as Michael Geist—who seemed to argue for an open, fair use system, basically indicating that, you know, if we move toward this, some have suggested a levy on media as a means of kind of replacing...so that there would be a collective that would replace any income that would be lost. Then everybody could share and all would be right with the world.

What's wrong with what Mr. Geist is saying?

**Mr. Graham Henderson:** I thought you would have had all you ever wanted to hear about that last Tuesday.

I would have to say, having read the transcripts, or being aware of what was said there, I concur with that; I mean, we are opposed to the sort of fair market proposal that's being promulgated, which has the effect, we feel, of legitimizing virtually all of the illegal activity and therefore destroying the marketplace—and then replacing it with a levy.

I don't think that's the solution. I don't think creators benefit from that. I *know* they don't benefit from that. I don't think consumers are going to benefit from that. No one will.

I would have to say that I don't think it has a place. Certainly it's a concept that's foreign to the continental systems. It would be something that you would have to look at very, very carefully, because if there were ever an area where the law of unintended consequences could take full rein, it would be that.

**Mr. Dean Del Mastro:** Thank you.

What I'm hearing from today's guests—and I think it falls to this Parliament to be responsible and move when we are presented with the next copyright bill—is that the problem is illegal redistribution. Fix that, the market works.

One of the things that Mr. Angus and others are hearing about in regard to what I've referred to as the “iTax” is the fact that the music industry in Canada is in a desperate situation right now. They'll take money any way they can get it. They'd prefer to have a system that operated with rules. We had a guest the other day who said that good fences make good neighbours.

Mr. Henderson, you've said today that we should set the box in place and allow people to understand what the laws are, and they will obey them. I tend to agree with that. And shut down some of the sites that, frankly, are stealing content, or allowing content to be stolen, and the market will work.

With respect to the levy, which I and my government are wholeheartedly opposed to, I would just propose this: would you rather have a system that worked, where the fences were defined, where people like Ms. Gilliland and Mr. Millar could work on these emerging platforms, and Ms. McKennitt could put her material on those new platforms and be paid for it? Is this not what you're asking for?

That's my understanding of what the industry really wants.

I'll allow each one of you to respond to that.

**Mr. Graham Henderson:** I think the levy debate is obscuring the real problem. Levies, historically, have never been more than an ancillary support for artists. The levies could and should have been a fraction of what the artists were able to make, whether through touring or selling their high-value assets.

I believe the drive for levies is a reflection of just how bad it is, but it will not solve the problem. We have no issue with levies if, for example, they were applied to private copies of legally obtained music; it's where we throw the gates open and in effect destroy the ability for people to earn a living.

•(1240)

**Mr. Charlie Millar:** I'd just like to comment on it.

From a business development perspective and from a technological perspective, my issue is that in the pirate digital generation there is no need to buy or download onto devices. When you are able, at your fingertips, to go anywhere at any time and download whatever you want, a tax that addresses storage is a way to get some pennies. I'll admit, it's a way to sort of get something, and that's great, but from the pirate's perspective, this does not address the underlying behavioural issue, which is, as you said, Mr. Del Mastro, really what we're after here. That's why I have a real issue with it, and I want to get that on record.

**The Chair:** Thank you.

We'll move now to Mr. Simms, please.

**Mr. Scott Simms (Bonavista—Gander—Grand Falls—Wind-sor, Lib.):** Thank you, Mr. Chair.

I have 101 things to say. I agree with Charlie, this could take all night, but I have five minutes.

Let me just go back for just a moment to this idea of the levy. Correct me on this—just yes or no—but what you're saying is that the levy will bring forward some unintended consequences in a legal manner? What you're saying is that you don't want us to grasp the levy for the sake of it being the final solution, as it were?

**Mr. Graham Henderson:** Correct.

**Mr. Scott Simms:** Okay, I got it.

Nonetheless, it is something that is utilized by the group of artists who are currently out there. Is that correct?

**Mr. Graham Henderson:** There's a levy currently on other storage media.

**Mr. Scott Simms:** That's right. And you would not want to see that disappear.

**Mr. Graham Henderson:** That levy in and of itself will disappear through the passage of time.

**Mr. Scott Simms:** True, but to eliminate it for the sake of being an unfair tax is not a way to go.

**Mr. Graham Henderson:** No. So long as a levy is focused on... If somebody goes and buys a CD or downloads something, if they want to make a private copy of that, and the levy focuses on picking up a small pittance for the privilege of making that copy, I don't have a problem with that.

**Mr. Scott Simms:** Yes, and for some artists I'm sure it makes a bit of a difference. I just wanted clarification on that one.

**Mr. Graham Henderson:** It can make a bit of a difference.

**Mr. Scott Simms:** In Europe right now, the aggressive stance of government certainly has spawned a huge debate. Right now there are actually political parties in Europe called the Pirate parties. You get the idea of just how nasty this is, but there you have more unintended consequences.

Here's the other issue I have. We talked about the fact that there's illegal activity and you're not in favour of going after someone—such as the single mother, or my son—for downloading illegally. Herein lies the problem. There are a lot of people out there who don't know that what they're doing is illegal.

Parents would be shocked if someone came out of HMV with a smuggled CD of a single from Loreena McKennitt. But if they went through the venue that you said, through that site, which sent them up to the free site—ah, that's okay.

What we need to do, I guess, is educate the public as to what is illegal and not.

**Mr. Graham Henderson:** Correct.

**Mr. Scott Simms:** How does that fit into the box that you're discussing?

**Mr. Graham Henderson:** I think what we've seen internationally is that you can't just implement a law like this and then do nothing. The government could and should be involved, as should business, as should all of us, in an extensive educational campaign to turn this

around. It's not going to be easy, but it's worth the fight because music matters.

You're right, most people don't make that equation. They do think it's different.

But I have to tell you something. We have polled on this extensively, and they know it's wrong. They may be doing it, but they know it's wrong. They do believe as Canadians that artists should get paid for this. If we stop them, if we encourage them to stop, it will make a big difference for mothers and fathers who get a very clear message—which, by the way, this government is not sending, and past governments have not sent in Canada.

**Ms. Darlene Gilliland:** I have an example to respond to your question as well, Mr. Simms.

As part of our efforts to understand what fans want, we bring groups of high school kids in to talk to us a couple of times a year just to hear what they're doing. To Graham's point about how they know it's wrong, I think they believe they're allowed to do it. They believe there are no consequences to doing it; I think that's true.

But it's interesting when you ask them about it. You say, "Okay, so you can take Jay-Z's music off-line." They say, "Yeah." So you say, "If you met Jay-Z backstage at his concert, would you tell him where you got his music?" They all say "No." To me, that's a real...

The parents can play a role. The kids know it's the truth: that's what they're thinking; they know it's wrong.

●(1245)

**Ms. Loreena McKennitt:** From my perspective, as with many kinds of battles, they need to be addressed from a variety of directions at the same time. I think the very first step is a legislative step that does protect intellectual property. But there are a lot of other tasks and sub-battles to go on.

Just by that measure alone, it will start to...because I think a lot of people want to be law-abiding. Once they know what the law is, they abide.

Then it leaves this smaller renegade group, which still might be substantial enough. Then one can look at how aggressive the measures need to be, and more particularly how tailored those measures need to be, in order to be effective relative to the damage they perhaps can inflict.

I truly believe there would be a lot accomplished by just a legislative move. I too would share concerns about the levy. I'm very grateful that there are those who come up with such ideas to think that this may compensate creators in some way, but I do take the view that, as a business person, I would rather have fewer handouts than a strict and identifiable and predictable business model in which to conduct my business.

**Mr. Scott Simms:** Thank you.

**The Chair:** Madame Lavallée, please.

[Translation]

**Mrs. Carole Lavallée:** First of all, you are absolutely right, Mr. Henderson. Young people need to be educated. I understand that. Ms. Gilliland said that she was already taking steps to do that and it's a fine initiative on her part. I do believe that it's extremely important to raise public awareness and perhaps to educate young people, because no doubt you have already noticed that according to the surveys, young people are primarily the ones who download music free of charge. As soon as they start earning an income and become financially independent, they realize that they must pay for music. In any event, in Quebec, this principle is widely accepted. The public must pay for music and the artists who produce it must be paid as well.

With respect to levies, perhaps there was a bit of a misunderstanding. I simply want to stress that, as Mr. Henderson pointed out, levies are an ancillary support measure. The legislation already makes provision for levies to be charged. It is matter of updating the legislation to ensure that artists are compensated for MP3 and iPod music downloads. For example, I'm sure Ms. McKennitt is already receiving royalties from the Canadian Private Copying Collective.

As I understand it, every three months, artists receive a cheque. The money comes from the levies charged on blank audio recording tapes—which are not used as much—and blank CDs. The levy charged on the former medium is 24 cents, and on the latter medium, 29 cents. It is simply a matter of updating the act. These levies do not provide the artists' sole source of revenue, quite the contrary, but this is part of what we now refer to as the private copying levy. Provision is already made for this ancillary measure in the act.

Since 1987, \$180 million have been distributed in this manner by the Canadian Private Copying Collective to 97,000 artists in various fields. Using a highly sophisticated mechanism, the CPPC distributes the proceeds as equitably as possible, which suits everyone. Therefore, levies are simply an ancillary support measure.

That said, I'm surprised that you do not support this initiative because I could quickly give you the names of some fifteen organizations that do support it: ACTRA, SODRAC, SOCAN, the Canadian Private Copying Collective, the Guilde des musiciens et musiciennes du Québec, the American Federation of Musicians of the United States and Canada, the UDA—Quebec's equivalent to ACTRA—, and the ADISQ—Quebec's equivalent to the Junos. In addition, the Union des consommateurs not only agrees with , but favours the levies as well.

You can go ahead and respond.

[English]

**Mr. Graham Henderson:** We do support levies like this. We are also a member of the CPCC through our membership in the NRCC. It's not just artists who benefit. It's independent labels, major labels, songwriters. A lot of people benefit from the levy, so I don't think there's an issue about the existing levy.

Do we have an issue with levies that are targeted and focused on private copies made from those legally acquired? No, we do not have a problem with that. What we have a problem with are solutions that would have the effect of legalizing the entire world of piracy. I hope

nobody wants that here, but that's what's on the table. It would have that effect.

It's somewhat disappointing to me that this is a part of the solution. It is a very small part of the solution. And I don't mean to diminish the importance of the money that people receive from this. It is important. It may pay the rent. It may turn the lights on. It does those things. But what I'm saying—and I think this is what you heard from Charlie and the others here—is that we need to focus on the bigger picture.

Passing a levy, including a levy, will not solve the problem. In fact, as contemplated, it may exacerbate it.

• (1250)

[Translation]

**Mrs. Carole Lavallée:** We agree to agree. How much does your book cost?

**Voices:** Oh, oh!

**Mrs. Carole Lavallée:** Is my time up?

[English]

**The Chair:** You have half of half a minute: 15 seconds.

[Translation]

**Mrs. Carole Lavallée:** Getting back to the notice and notice system, do you favour it over the three strikes law or graduated response principle?

[English]

**Mr. Graham Henderson:** I think we're at a stage in our copyright evolution that contemplating something like a graduated response.... I think "three strikes", by the way, is one of those terms that has been applied to it. It's like a pejorative term, to make it sound worse than it is. A graduated response is what it is. But I don't think we're at that stage here.

What's contemplated is a notice and notice. Will notice and notice work? Notice and notice can be a fabulous educational tool, but without consequences it can pose a long-term problem.

As for notice and takedown, which I think Charlie hates, it is entirely different. And by the way, everybody else in the world seems to have it and they don't seem to have a problem with it.

**Mr. Charlie Millar:** Along with government controls, as already mentioned, there's another side to this. Right now Warner Music Group works with all the network operators. There is voluntary notice and notice right now. This exists. The problem is it's not having any effect, and I think that's where we're coming from. I could cite many references if I had more time that speak specifically to how Warner Music Canada works with the network operators on trying to deal with infringing content.

**The Chair:** Thank you.

Next questioner is Mr. Uppal, please.

**Mr. Tim Uppal (Edmonton—Sherwood Park, CPC):** Thank you, Mr. Chair.

Your industry requires obviously a specific skill set. There are skills that are needed to work in this industry, and that skill set has been changing. I'm wondering, those people who are entering the work field in your industry, do they have these new skill sets that you need? And is there something that can be done to help them further along to get those skill sets?

**Ms. Darlene Gilliland:** I think what's very interesting to see so far is that in our building we have people from very diverse backgrounds. We are starting to specifically hire tech-savvy people who really focus on new media. We have about 20 people at our company who focus specifically on new media. They are educated in that space. That's different from historical music industry training. We have a lot of people at our company as well who have traditional music industry training, and increasingly more from a business background or a legal background, as that becomes more and more important.

I think one interesting thing is that the record labels we are finding are seeding other content businesses in Canada. As they develop their new media industries, our challenge is keeping our staff from being poached by the broadcasters or the people who are now the wireless carriers who are trying to learn about content; they know that we have been there and we understand it.

**Mr. Graham Henderson:** I would just add that I do think this is an issue. It may be that the larger companies have an ability, for whatever reasons, to access this talent, but I do think there is an issue for smaller music businesses in this country in getting access to this type of talent. It's something that we need to look at.

It's like we have a different ecosystem, and there are people who are out on the edges of it. You can almost think of them starving for oxygen. So how do we get the oxygen to them? Well, think of the oxygen as digital know-how. These people here have a ton of this digital know-how. They can afford to hire people with that digital know-how, and can break artists in this new environment even when it's very difficult to do, but I think we need to direct some attention to the rest.

I think that's a good question.

•(1255)

**Mr. Tim Uppal:** My next question would be that CD sales, as we know, have gone down and single digital track sales have gone up, legitimate single track sales. Being just a devil's advocate here, or just saying what some people have said, some of that would be attributed to legitimate online purchasing rather than piracy.

How do you feel about this, that maybe the problem isn't so much piracy as just legitimate sales that are bringing down CD sales?

**Mr. Graham Henderson:** Oh, I see; it's cannibalizing. No, I don't believe the legal digital marketplace is cannibalizing CD sales. We're at a frontier, right? We're at a tipping point. This has happened before in our industry, from vinyl to cassette, cassette to CD, CD to digital.

So we're seeing that decline, but I certainly do not think.... If that were true, then everybody would be migrating and CD sales would collapse, but they're not. People are still buying CDs. The problem is with people who are opting out. They are not buying anything.

**Ms. Loreena McKennitt:** Moreover, there are many fewer CD retail stores, and this is also a domino effect of the whole collective environment that everyone is working in.

On the whole, my constituency prefers to purchase their music in CD form because they like to sit with the liner notes and so on. That's not to say that some of them don't download legally as well, and perhaps some illegally, as I pointed out. I think that an incredible food chain exists here. Once the environment is not established and protected from an economic standpoint, a lot of these players, whether retailers or studios or others, start falling away.

The people who phone my office—the 1-800 number—say, “We used to have a Sam the Record Man in our neighbourhood”, or, if they're calling from the States, Tower Records. They don't exist anymore, and entities such as Amazon have come in to fill the gap.

**Mr. Charlie Millar:** To take it one step further, we are creating direct-to-consumer solutions to satisfy that need as well. I can speak for Warner, but I know the other labels in Canada are doing this as well. We run our own retail operations, which is another way for us to exist without that retail footprint.

**The Chair:** Thank you.

We're going to go to the third round. It's going to be two minutes.

**A voice:** A lightning round.

**The Chair:** Yes, it's a lightning round.

Mr. Rodriguez is going to go first, and then Mr. Angus, and then Mr. Del Mastro.

**Mr. Charlie Angus:** Thank you.

This has been an excellent discussion. I'm really—

**The Chair:** No, not yet, Charlie.

**Mr. Charlie Angus:** Oh, come on!

**Voices:** Oh, oh!

**Mr. Charlie Angus:** I heard my name, I get to go.

**The Chair:** No, I said it would be Mr. Rodriguez first, and then Charlie.

**Mr. Charlie Angus:** *Tabarnouche.*

**Mr. Pablo Rodriguez:** In two minutes it's going to be more a comment than a question, or maybe it will be a question at the end.

Mr. Henderson, you started saying that society could or should be judged on how it treats its artists. I think that's very important, and I agree with you. You also said that very few artists, including musicians, live from their art. It's difficult, and we all know that.

Having said that, I'm surprised that you're opposed to the levy, because in a way the levy is part of this ecosystem. It's not there to solve all the problems, but when I met with Marie Denise Pelletier yesterday, she explained how much of a difference this can make for some people. For others, it's just enough to record another record or something like that.

If you're not against it, then why are you not strongly in support of it?

**Mr. Graham Henderson:** If that should be around 5% of somebody's livelihood, can you see why I might be interested in getting the 95% back?

**Mr. Pablo Rodriguez:** I agree with that, yes.

**Mr. Graham Henderson:** That's the focus, the 95%.

**Mr. Pablo Rodriguez:** That's what I'm saying, that it's part of the ecosystem. It's part of it.

**Mr. Graham Henderson:** I don't disagree. I thought I'd answered that. I thought I'd made it very clear that—

**Mr. Charlie Millar:** The concern is that it's stand-alone; it doesn't address the behaviour. I think that's why we have issue with it.

**Mr. Pablo Rodriguez:** Okay, fine.

**Mr. Charlie Millar:** Just to be very clear, it's the issue with it. I don't want to distract; it's not like tax, check the box, and move on. That's my concern.

•(1300)

[Translation]

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

[English]

**The Chair:** Thank you.

Go ahead, Mr. Angus.

**Mr. Charlie Angus:** Thank you.

This has been great, and I'm really keen with what you guys are doing at Warner and Universal.

Loreena, I wish our band was as good as you; I probably wouldn't have to be here in a suit—in terms of our marketing—and giving you guys a hard time.

Graham, I think my problem here is that when we were kids, there was rock and roll and hockey and nothing else. My kids buy CDs, they buy DVDs, they've got the Wii. That market has changed forever. I have a hard time saying that it's all piracy. Everything has changed. We used to go into bars where we could play six nights of the week. Now you've got one night on a Thursday and you get two people. I mean, everything has changed.

We politicians get whipped up into a lather; we've got to get laws and everything. But I see that there's been a whole whack of changes.

I've got this book, *Appetite for Self-Destruction: The Spectacular Crash of the Record Industry in the Digital Age*. What they talk about...the 1997 op ed: the greatest mistake of the musical industry in the 20th century was killing the single. It started there. It was

forcing kids to buy the \$25 CD for two crappy Backstreet Boys songs.

Napster came along—it was called the “revenge of the single”—at the time when kids wanted the single. You had the option then....

You can say you don't like the book, but it's a fascinating read.

**Mr. Graham Henderson:** [*Inaudible—Editor*]...misrepresentation, the classic straw man.

**Mr. Charlie Angus:** I'm running out of time here.

You had the opportunity to make the deal with Napster. It was 26 million users. What the kids loved about it, according to the interviews, wasn't that it was free; it was that they were able to access it. Say half of that audience went off because they didn't want to pay for anything, and you had them on a subscription rate.

This book says that would have created a \$15-billion-a-year market.

**Mr. Graham Henderson:** That's not true.

**Mr. Charlie Angus:** But you guys chose to go the lawsuit route.

Your line at the time—

**Mr. Graham Henderson:** Straw man.

**Mr. Charlie Angus:** —was that you could put the genie back in the bottle.

**Mr. Graham Henderson:** Straw man.

**Mr. Charlie Angus:** I advise everyone to read this.

**Mr. Graham Henderson:** If you like the straw man.

**Mr. Charlie Angus:** It gives some pretty good analysis that you guys blew it.

**Mr. Graham Henderson:** If you like the straw man.

**Mr. Charlie Angus:** Now we're picking up the pieces.

**Mr. Graham Henderson:** If you'd like a complete misrepresentation of our business, you're welcome to read it.

**Mr. Charlie Millar:** Can I respond, Mr. Chair?

**The Chair:** You can have a very short response, please.

**Mr. Charlie Millar:** As I think was established earlier on, there are three segments to the market. We're only focusing on one with Charlie Angus's comments here. I beg the committee to please understand that this book and what he is talking about references a time that is gone. We're working on two other aspects of the business, which are in the tens and hundreds of millions of dollars internationally, okay?

What we're talking about in Canada is a three-segment business—one, the downloaders, which we monetize right now; two, the product innovation; and yes, there is a pirate element. But we need to address all three. It's just straight economics and marketing.

Thank you.

**The Chair:** Thank you.

Mr. Del Mastro, you can have a very short question, please.



**Mr. Dean Del Mastro:** Thank you. I'm going to use my full two minutes, Mr. Chair.

On this device, I could pop a \$10 card in. I could expand this thing such that I could put thousands of songs on here. You can put about 20 songs on a CD. The tax on the \$10 memory card, to be equivalent to the 29¢ on a CD, would be about \$30.

Just to be clear, if you put that kind of tax on something, it's not going to work, because people are going to go on eBay and buy it from the States.

What we need to focus on—I couldn't agree more with what you said, Mr. Henderson—is the 95%. Let's focus on making the business work.

That is what he said. He'd like us to focus on the 95% of the business. I couldn't agree more with what he said in that regard.

You have just a minute before you leave. I'm glad to hear that we're moving forward and that we have good young people working on emerging technologies. On this issue of getting the copyright bill through and creating a market that works, how important is that to your industry?

**Mr. Graham Henderson:** At this point, it's everything.

**Ms. Darlene Gilliland:** What we're trying to get across today is that we're doing everything we can.

To Mr. Angus's point, we understand the splintered nature of new media and how many ways kids consume music. We are doing the

deals to get into all those avenues. But while the tap with all the music created in the world is open to these sites, our deals are not able to make the impact they could make. So it's key.

**Mr. Charlie Millar:** Because of the lack of copyright reform in this country, we're watching foreign direct investment diminish. We're watching technology at the next-generation level go elsewhere. That's the risk.

• (1305)

**The Chair:** Thank you.

I just have one statement to make. I know that the WIPO treaty was signed in 1996, and having an international copyright agreement here, legitimately, in Canada is long overdue. So thank you for that.

Yes, Mr. Angus.

**Mr. Charlie Angus:** On a point of order, Mr. Chair, we went through this whole meeting and you did not mention Justin Bieber once. The guy is from your home town. You've got Loreena McKennitt here, and you did not say....

I want that on the record.

**The Chair:** I thank Ms. McKennitt, one of my constituents, for being here today.

**Mr. Charlie Angus:** I want Justin here.

**The Chair:** We'd have to have a higher stool.

The meeting is adjourned.

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