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Chair

Ms. Jean Crowder

Standing Committee on Access to Information, Privacy and Ethics

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•(0845)

[English]

The Chair (Ms. Jean Crowder (Nanaimo—Cowichan, NDP)): Good morning, committee members.

Before we go to the witnesses, I understand the witness has a slightly longer than ten-minute statement. Committee members have agreed it would be acceptable for the witness to take a little longer.

Mr. Del Mastro.

Mr. Dean Del Mastro (Peterborough, CPC): Madam Chairman, I have a point of order.

Madam Chairman, members of the committee, since submitting my motion a little more than two weeks ago....

I should say at the outset how much I've missed each one of you.

Mr. Charlie Angus (Timmins—James Bay, NDP): I've missed you, Dean. I've been thinking of you every day.

Mr. Dean Del Mastro: This trial separation has been hard on all of us.

Since submitting my motion two weeks ago, the CBC has cooperated by providing the committee with documents. We appreciate that.

We've also had some advice from the law clerk that was clear in indicating that while my motion.... My motion contained conditions for all documents to be viewed in camera. The law clerk indicated that the ethics committee would avoid any offending *sub judice* convention if we were to proceed in that fashion. And I appreciated that.

Over the time period, the CBC has publicly released some of the information that was part of my motion. This information was previously deemed to be under section 68.1 of the Access to Information Act, specifically. I have the listing of their vehicle fleet, which was publicly released. We appreciate that, as well.

It demonstrates to me that the concerns about how section 68.1 was being applied and the allegations that were specifically levelled by the Information Commissioner in this regard were in fact valid. That was the reason behind the motion in the first place.

Secondly, in a separate process to this committee, the Federal Court of Appeal noted in its ruling yesterday, in paragraph 13, that

...for 13 of the 16 files, no records were examined to justify the refusals, the CBC having determined that the exclusion under section 68.1 of the Act applied from a simple reading of the access requests.

This is again validation of the testimony made by the Information Commissioner at this committee.

All this is to say, Madam Chairman, that I do not see the need at this point to open any sealed envelopes that have been provided to this committee. I want to make sure the concerns raised by the CBC and others in this regard will be respected. That being said, the balance of the information will be viewed in camera at this committee to help inform members, and members of the Conservative Party will keep all information contained in those documents strictly confidential.

Thank you.

The Chair: Thanks, Mr. Del Mastro. Of course the committee will be dealing with this matter on Tuesday.

Mr. Del Mastro, with your point of order, are you suggesting that we return the sealed documents to the CBC?

Mr. Dean Del Mastro: I'm happy that they be returned.

The Chair: Okay. I will instruct the clerk to return the sealed documents to the CBC.

Before we go to the witnesses, Mr. Angus has a point of order.

Mr. Charlie Angus: We won't be too long, because Monsieur Lacroix is the reason we're all here.

I'd like to thank my honourable colleague for that intervention. I think it's reasoned.

Our concern was always the issue of parliamentary interference, whether intended or not. But it has serious implications, and we do have a larger responsibility. And in light of the Federal Court ruling, which today we should be able to hear some answers on and where we're going, and the letter from the Information Commissioner advising us that she is now looking into this and she would prefer that we stay within our mandate and allow her to follow her mandate, I think that would be wise. So we're certainly willing to continue working as a committee, because we have a lot of important business here.

Thank you, Mr. Del Mastro.

The Chair: I believe all committee members now have the letter from the Information Commissioner. If you don't, please let the clerk know.

Seeing no other points of order, I'm going to turn to our witnesses.

We will allow a little latitude on the length of your presentation, Mr. Lacroix.

Mr. Hubert T. Lacroix (President and Chief Executive Officer, Canadian Broadcasting Corporation): Madam Chairman, good morning.

[Translation]

Members of the committee, I thank you.

[English]

I'll try to be as brief as I can.

[Translation]

You've invited us here to explain why we have been in court with the Information Commissioner.

As you know the Federal Court of Appeal released its decision yesterday. The court has ruled that the commissioner has the right to examine CBC/Radio-Canada records relating to journalistic, creative or programming activities, subject to certain exceptions including, most importantly, journalistic sources, which is unequivocal in our opinion. The court said: "in the event that a request seeking the disclosure of journalistic sources was made, a record—or the part thereof—revealing this type of information would be exempt from the commissioner's power of examination."

We are still reviewing the judgment. At first reading, we feel that this judgment clarifies the ruling of Justice Boivin in a manner which might satisfy most of our concerns.

This finding is extremely important to us. Protecting our journalistic sources was one of the most important considerations for pursuing this court challenge.

As we have said from the beginning, the courts are the appropriate place for this issue to be decided.

● (0850)

[English]

The court process has triggered a lot of unprecedented action. However, through it all I believe what has been lost or distorted in the general confusion is our actual record on public accountability and access to information—and what this court challenge was all about.

This court challenge was only about the jurisdiction of the commissioner. It was never, and still is not, about the information we release to the public under access to information. The Federal Court of Appeal decision doesn't increase or decrease a requester's ability to access our journalistic, creative, or programming activities, or increase or decrease the information we will disclose.

Let me now address our actual performance, because accountability and transparency are central to our role as a public broadcaster and absolutely critical to our credibility, as is our arm's-length relationship with government.

We have an independent board of directors, including an audit committee and a governance committee. They are all independent and appointed by the government. It's their responsibility to oversee our budgets and operations and ensure that our programming and journalistic resources are being spent wisely.

We also provide detailed financial information and reports to the CRTC. This ensures that we are accountable to the public in relation to our licence conditions.

[Translation]

We have the Auditor General of Canada, who reviews and signs off on our financial statements each and every year, and who conducts a comprehensive special audit, every five to ten years. His report is tabled in Parliament.

We also report to our minister and to parliamentarians on the fulfillment of our mandate and objectives via our corporate plan and annual meeting, and our annual report. We even provide quarterly financial information to Canadians, together with an analysis of our performance during the period.

And, yes, we are accountable under the Access to Information Act for the general administration of our corporation.

[English]

That is how we are accountable. But there is more. We have taken steps to proactively demonstrate our accountability. Maybe you'd like to know how much I, as president and CEO, am charging to the company for working meals and business travel. That information is already public and I'd like to walk you through it.

Please go to your folders. Take a look at tab 1-A. You'll see a printout of what you would see if you went to our corporate website and clicked on "transparency and accountability" and then "proactive disclosure". You would see a list of names including mine. Pick one, literally any one, and you'll see the expenses each of us claimed every three months going back to 2007, when we became subject to the act.

Pick mine and you'll see, among other things, if you flip through the pages, that my visit to Quebec City and Rimouski this past summer generated a cost of \$1,608.73 for the public broadcaster. I also spent \$5,472.29 to travel to Calgary and Saskatoon to meet with staff and unions, speak at the University of Saskatchewan, and meet with various local opinion leaders.

But there's more. Maybe you'd like to know how CBC/Radio-Canada decides what to release under access to information. Maybe you'd like to know what kind of information has already been requested under access to information and released. We've already made that information public—and by the way, no other organization has done that yet.

Last Wednesday, Treasury Board President Tony Clement announced that by January 1 all departments and agencies subject to access to information will post summaries of completed access to information requests on their websites. We post more than the summaries. We actually post the documents themselves for requests of general public interest, and have been doing so for one year.

Go to your files again, please.

•(0855)

[Translation]

In your folder, under “Access to Information”, Tab 1-B, is a print-out of what you would see if you went to our website. This section entitled “Access to Information” contains more than 27,000 pages of information requested under Access to Information. It is available to anyone.

You will also see, if you click on my trips to Ottawa, that I have stayed regularly at the Château Laurier. Quebecor papers have called this information proof of my “taste for fine hotel rooms and pricey lunches”. It is of course their right to take the information we have made public and to run inflated stories based on the information that we publicly release. Our responsibility, our commitment to accountability and transparency, is to make this information public. They can twist it and distort it in whichever way they want. That won't deter us.

You will also find on our website a copy of the guidelines we use in applying section 68.1 of the act.

[English]

Please go to tab 4-A.

[Translation]

The commissioner said she was concerned about the guidelines; concerned that we decide what information is excluded based on the nature of the request. Our approach was designed to avoid charging fees unnecessarily for collecting documents that clearly fall under section 68.1.

Nevertheless, we have already gone ahead and changed our practice.

[English]

We have also made significant progress in reducing the number of our deemed refusals, those requests to which we haven't responded quickly enough, and which accounted for the F we received last year from the commissioner.

As you will see in your folders at tab 1C, deemed refusals now represent less than 5% of all requests, a commitment we made to the commissioner in March 2011. You will also see at tab 1D that as of November 22, 2011, we have dealt with 1,449 of the 1,477 information requests we've received. Of course new requests continue to come in.

However, none of this changes the fundamental principle that if you—or any other broadcaster that competes against us for audiences, producers, talent and programs—want to know how much Peter Mansbridge gets paid, or how much Radio-Canada spent developing its hit show *Les Enfants de la Télé*, or what CBC's promotion strategy is, including how much it spends on advertising George's show on billboards or through a special launch of his season at TIFF, that information will not be disclosed publicly. That is because the law draws a clear line at those things that would undermine our independence, our prejudice, and our competitive position.

Yesterday's judgment does not change that fundamental principle. Without the protection for journalism, programming, and creative activities, we could not operate as an independent public broadcaster.

As a final point, you invited Quebecor and others here to share their opinion on our performance. I heard and read some pretty amazing things, so in your folders you will find a document correcting the record under tab 2, which addresses some of the claims that were made before you in the last weeks.

For example, I just can't believe that in answering one of your questions Mr. Drapeau did not tell you that on September 7, 2010, his office filed 72 information access requests on the same day. Quebecor's strategy is clear. Their properties will continue their campaign. They believe they can benefit from diminishing the role of the public broadcaster. They have a self-interested agenda, and they will continue to use access to information and do stories in their newspapers and on their television stations to pursue it. So be it.

Where do we go from here? Parliament can always change the law, but it must do so in a way that doesn't turn what is currently an independent public broadcaster into a state broadcaster. In the spirit of the Federal Court of Appeal's decision, we believe this committee should now consider language that clearly protects journalistic activity from access to information.

In the meantime, we at CBC/Radio-Canada will keep implementing our 2015 strategy to improve the services we provide to Canadians. We will keep making great Canadian programs and will broadcast them in prime time. We will work to deliver better value to Canadians in the regions and across all of our platforms.

We're ready for your questions, Madame Chair.

•(0900)

The Chair: Thank you, Mr. Lacroix.

Just to remind committee members and the witnesses that each member has seven minutes, which includes the member's question and your response, and I will be pretty rigorous about cutting you off.

Mr. Angus, for seven minutes.

Mr. Charlie Angus: Thank you, Madam Chair.

Thank you, Mr. Lacroix, for a very thorough presentation.

As you know, yesterday the Federal Court of Appeal ruled on CBC's decision or desire not to share certain information with the Information Commissioner. We take great pride in the role of the Information Commissioner. The Information Commissioner has a specific task to represent Canadians and to assure accountability, so when the Information Commissioner raises a red flag, I think as parliamentarians we have to be very serious about what that red flag means.

We were certainly concerned in our caucus about this committee interfering with the role of the Federal Court, but we believe that the CBC had a right to go to the Federal Court of Appeal, and the Federal Court of Appeal has rendered its decision. The very straight-up question for us is that now that the Federal Court of Appeal has made a decision, are you willing to work with the Information Commissioner, to get this issue behind us?

Mr. Hubert T. Lacroix: I guess we've always been interested in working with the commissioner. The Federal Court of Appeal rendered its decision yesterday. We are going to look at this decision in even more detail. As I said in my remarks, at first blush and after a first reading, it seems to deal with the most important of our preoccupations. But as to whether we are willing to work with the commissioner, we always have, we always will. We have had a very good relationship with the office of the commissioner.

• (0905)

Mr. Charlie Angus: Are you considering an appeal to the Supreme Court? We want to assure taxpayers that we are getting value for the dollars being spent. We want to ensure that it's fair to get a reading of what section 68.1 is, because it is a very important exemption, but we also want to get back to business. You say you're studying it. Does that mean the possibility of going to the Supreme Court, or studying it in terms of how you're going to meet the...?

Mr. Hubert T. Lacroix: We're going to have conversations with the commissioner, as we do in a normal case, yes. I have to admit that we just spent two days in a board of directors meeting at CBC yesterday. We finished late yesterday afternoon and came here to prepare for this committee. We've obviously read the decision. We'll make a decision in the next couple of days. That's not an issue for us, but we need to know the exact details. There's an interesting and important study of section 68.1 there, but as I said to you, one of the most important points that we had and that we thought needed to be protected was our journalistic activities, our journalistic sources. After the first read, it seems that has been correctly protected by the appeal court.

Mr. Charlie Angus: We've certainly been aware of the very visible, vocal media war between Quebecor and CBC, and we are also concerned about how we ended up being dragged into that war, because much of Quebecor's war has been based on access to information requests.

Given the Federal Court of Appeal decision, do you believe the right to protect information from third-party competition is protected? How does that maintain the balance, ensuring that taxpayers know that money is being spent in an accountable, straightforward way?

Until now, it seems that CBC has been in the position to make that decision, and we frankly have heard many seemingly arbitrary decisions made by CBC as to what is acceptable to the public and what is not. How are you going to ensure that you are able to maintain your competitive position in the market and also ensure that this competitive advantage is not being used to squash legitimate information requests?

Mr. Hubert T. Lacroix: We believe in accountability. I told you that it's one of the core principles and core values of the public broadcaster. You can't be a public broadcaster without that. In my remarks I told you the list of things we are subject to, to prove that accountability. This decision yesterday did one thing: it allowed the commissioner to review the information. The commissioner knows that section 68.1 still lives, that nobody has access to programming, journalistic or creative activities. She will review that information and we assume will make the right decisions and have conversations with us on the information she'll release.

Mr. Charlie Angus: The Information Commissioner told us she believes that access to information denial should be based on an injury-based interpretation. What does that mean? Is that a much narrower exclusion? How does CBC see that lens that the Information Commissioner is applying, and are you willing to work with her through her interpretation of how section 68.1 should be read?

Ms. Maryse Bertrand (Vice-President, Real Estate, Legal Services and General Counsel, Canadian Broadcasting Corporation): I'll take that one.

I think the commissioner was alluding to changes that she would like to see in the law. The law as it stands now doesn't have any injury-based test in connection with the review of our programming or journalistic or creative activities. So right now we'd be working with the commissioner on the law as it currently stands.

Mr. Charlie Angus: In terms of the very vocal media war with Quebecor, you released a document at the beginning of this set of hearings in which Mr. Péladeau said about the CBC that he was "astonished by the abuse that it has been running on false and malicious information".

Do you stand by your claims with Quebecor? Do you believe it's in the public interest to respond to Quebecor? Certainly Quebecor and Sun Media have been launching a full-out assault on the CBC. Are you going to be in a turf war with them now on this information fight? How do you see your role with them?

Mr. Hubert T. Lacroix: That's a very important question. At some point in time, forbearance is no longer a virtue, and when you cross a certain point the public broadcaster needs to stand for its employees, its brand, its journalistic activities, and the quality of the services it renders to Canadians every day. The information circulated by and promoted by Quebecor goes to the brand, distorts the story to the point where I don't even recognize my expenses. Last week there was a story about an important project that we're trying to do in Montreal. We're trying to scale down our building. We have about 1,300,000 square feet in Montreal. We'd like to reduce that to about 800,000 or 900,000 square feet. We have no dollars to do that. So what we're trying to do in Montreal is get a developer interested in the land. The developer would take the risk, and we'd take the upside, but we would be improving our facilities by scaling down, at no cost to the taxpayer. This is what we are supposed to do—maximize the value of the assets we have. When we do that the headline in the newspapers says a Taj Mahal is being built in Montreal by the CBC. That's the kind of stuff that we have to stand up and denounce.

• (0910)

The Chair: Thank you, Mr. Lacroix.

Mr. Del Mastro.

Mr. Dean Del Mastro: Thank you, Madam Chairman.

Mr. Lacroix and Madam Bertrand, welcome to the committee this morning.

Mr. Lacroix, I listened to your comments and I appreciate the walk-through you've completed. Can you tell me the documents that you're actually providing access to, the amount of those expenditures? When I do a read-through, it seems to me it would be a fraction of 1% of the CBC's expenditures that you're actually providing information on. It's a good first step, but frankly this is a very small amount of transparency in the CBC's overall budget and expenditures. It doesn't deal with much of how the tax dollars are being spent, correct?

Mr. Hubert T. Lacroix: On our site we have 27,000 pages of requests that we've answered. We've released 80,000 pages on all sorts of requests relating to general administration, because those are the words that you will find in the act. The Access to Information Act applies to the general administration of our corporation. We don't do general administration expenses as an activity. We do programming. And our programming, journalistic, and creative activities are protected by the Broadcasting Act and the Access to Information Act from being disclosed to people who could benefit from this information at the expense of our corporation.

Mr. Dean Del Mastro: I've heard some very reasonable concerns. For example, if you're only going to provide public access to a fraction of 1% of your overall expenditures, then you could simply move your expenditures to a place where your section 68.1 exemption would apply. You could move your hospitality spending under a new column—call it programming, call it creative, call it journalistic—and now all of a sudden you don't have to provide that access to information, or that transparency that is the intent of the act.

For example, it's difficult to understand why CBC didn't publicly release the request that came in on your vehicle fleet. In fact it's impossible to understand why or how, under those three categories of protection, you didn't publicly release this. I think that any reasonable person would have to conclude that if the Information Commissioner had been provided these documents she would have released this information. I think that's why CBC has released it. You didn't have grounds not to release this request.

Mr. Hubert T. Lacroix: I'm going to deal with the accountability piece and Maryse will answer the question on what happened with the fleet question.

I can't let your first comments go without a respectful comment in reply. If we did what you suggest we could do, we'd be cheating. We have a board of directors that oversees through its audit committee the expenses that we use for activities. On a quarterly basis, we release financial information like any other public corporation. We release with that information an analysis of our performance over the last quarter. You can now follow this—something we never used to be able to do because the act did not allow it, as it does now. You have more financial information about how we deal with the \$1.1 billion that we get from government and taxpayers, for which we are very grateful, than you ever had before.

Let's deal with the fleet question now.

• (0915)

Ms. Maryse Bertrand: The fleet question has to do not so much with the fact that this request was made or that we somehow tried to hide information. On the contrary, a year ago we came up with our

guidelines, at the suggestion of Justice Boivin in the judgment of first instance, as to how we would apply section 68.1. The wording in the exclusion of section 68.1 is that information related to programming activities is a very wide concept.

The case law is actually even broader. Everything that has to do with the collection and dissemination of information is considered to be part of programming. All of the vehicles in that fleet, except for the one vehicle that was unredacted on the page, which was Mr. Lacroix's personal vehicle, are microwave trucks, transmission trucks. They are vehicles that we use exclusively for purposes of our programming.

Mr. Dean Del Mastro: Thank you for that. You're answering the question, which is to say you're taking the exclusion to an extreme that I don't think most people would find reasonable.

Also, frankly, Monsieur Lacroix, I think anyone who reviews the access information that has been released could only conclude that there's been a reclassification of expenses since transparency has been provided in this regard. The overall expenditures on items like hospitality and so forth haven't changed, but the actual amounts that each member of the executive is charging have changed. Either the practices on the executive have changed dramatically, or things have been reclassified.

I'd be happy to provide documentation to you on that.

Mr. Hubert T. Lacroix: Yes, because we'd be happy to answer the question, sir.

Mr. Dean Del Mastro: One of the witnesses I thought was very good when he came before committee was Howard Bernstein. He said:

The CBC is a web of internal empires, where everyone controls his own money. ... It's hard for the president to tell other people what to do, because there are so many separations in there and there's so little general accounting. The accounting seems to cover only one's own unit. How you present the money you spend is indecipherable, even to the bosses.

How would you respond? This is somebody who knows the internal workings of CBC very well, and I think that's quite an indictment.

Mr. Hubert T. Lacroix: Mr. Del Mastro, Mr. Bernstein was with our corporation 20 years ago. There was no Internet 20 years ago, no CBC/Radio-Canada like the one you now have, no integration of services, and surely not me at the head of CBC/Radio-Canada.

When Mr. Bernstein makes comments of this kind, with no knowledge whatsoever of what's going on with all the processes we've put in place, with the accountability through our audit committee, with the Auditor General signing off on our statements, with all of the processes we have right now to follow the dollars and make sure we're accountable for them.... I find it surprising that you would give credibility to a person who has been outside of our corporation for 20 years.

The Chair: I will remind the witnesses and the members to address your comments through the chair. Thank you.

Mr. Scarpaleggia.

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): Thank you, Madam Chair.

I'm standing in for another member today, but I've been following the matter pretty closely as a former member of the heritage committee, and I've been following it through the press.

I must commend you, Mr. Lacroix. I was on the committee when you were appointed, and of course we all approved your nomination. As a good opposition member, I had some doubts, but you've erased those over the last year or so. This is an extremely succinct and well-documented presentation, and I congratulate you for that. I came here today, as I say, as a substitute, and within minutes I was able to grasp the issues almost totally because of this document. So thank you for that.

I would like to give you an opportunity to respond to some of the things Mr. Del Mastro said, such as the idea that the accounting system is indecipherable. I find it hard to believe that if you have an auditor... How many auditors do you have? You have a corporate auditor, then you have the Auditor General.

● (0920)

Mr. Hubert T. Lacroix: We have the finance people who work in our corporation, headed by Suzanne Morris, who is the CFO. The two media lines have a director of finance. We have an internal auditor who goes through our systems, our controls, our risk management, and reports to the audit committee directly.

The chairman of the audit committee is completely independent from CBC/Radio-Canada, a well-versed, seasoned executive who has been a CFO of a major corporation and has sat on boards of directors for years. And we have the Auditor General, who comes in and signs off on a yearly basis.

We provide the CRTC with audited financial statements for every station and where we use those dollars in every region. We have controls to make sure that Canadians can be reassured on our use of those dollars.

Mr. Francis Scarpaleggia: Even the auditors who are not from outside the corporation, who are not technically independent—I'm talking about the internal finance people—are professional accountants. So their loyalty is to the ethics of their profession more than it is to some corporate interest within the corporation, I would think.

Mr. Hubert T. Lacroix: And their reputation is on the line every time they prepare documents. These documents are reviewed again by the management team, by me, by our audit committee, and by our board. This is what we did just yesterday as we released our information for the second quarter.

Mr. Francis Scarpaleggia: Of the access to information requests you've received.... I forget how many you said you received since the law came into effect. Was it 1,200 or 1,400?

Mr. Hubert T. Lacroix: It was 1,477.

Mr. Francis Scarpaleggia: How many of those came from Quebecor?

Mr. Hubert T. Lacroix: I know that Colonel Drapeau's office filed 914 of those requests. I don't know how many Quebecor filed directly, but I know that a link was made, I think in front of this committee, because Monsieur Drapeau actually said he worked for Quebecor. That was one of his clients, and that's why he couldn't provide you with some of the details of their relationship; it was privileged. So I know that at least 914 came from there.

Mr. Francis Scarpaleggia: That's interesting, because you have other competitors as well. You have CTV and a whole list of competitors, yet they don't seem to be as bent on seeking all this information as other competitors are. So it leads one to believe that there's really some bad blood out there in the Quebec media world. To someone who is an outsider to this committee, it seems we have a bit of a witch hunt going.

As a member of Parliament and as a taxpayer and as a Canadian, at some point I take objection to that. I understand that financial accountability is very important. Yet we have a government that muzzles its scientists. We have a government that wants to make sure that the RCMP doesn't really deal with the public unless it goes through the Prime Minister's Office first. So I see a bit of a contradiction. But I also see something of a witch hunt going on, because the last time I substituted for a colleague, it was at the heritage committee, and you were appearing there on the same topic. That was 15 months ago.

On another matter, how much does Peter Mansbridge make?

Voices: Oh, oh!

Mr. Francis Scarpaleggia: I'm just kidding. But to be fair, how would that one piece of information alone compromise CBC's competitive position? I'm sure everyone in the media circles in Toronto and elsewhere knows pretty much how much he makes.

● (0925)

Ms. Maryse Bertrand: It's the war for talent, basically. If precise salaries for our talent or even our programs are known, then others can try to poach them or somehow compete more efficiently against us than they would otherwise be able to.

Mr. Francis Scarpaleggia: You don't think they've tried to poach already?

Ms. Maryse Bertrand: They can try, but if they know exactly how much to offer, it makes their life a lot easier.

Mr. Francis Scarpaleggia: So really all we're dealing with at the level of the Information Commissioner now is that she's going to look at some of these access to information requests to decide whether or not they fall under section 68.1. Is that it?

Mr. Hubert T. Lacroix: That's exactly right.

Mr. Francis Scarpaleggia: So if the government really wants to go further with this, it's going to have to amend the law, I guess. That's where we're at.

Mr. Hubert T. Lacroix: Our suggestion was that if this committee was going to make recommendations on the act, it focus on the protection of journalistic activities and journalistic sources.

Mr. Francis Scarpaleggia: But in your opinion, if it goes that route, it's really going to undermine your competitive position as a crown corporation. And it could actually be undermining the interests of the state, because you are publicly financed, and anything that undermines your ability to compete and to earn money for the taxpayer would be undermining the financial position of the government, in a sense.

Mr. Hubert T. Lacroix: Absolutely.

The Chair: Time is up, Mr. Scarpaleggia. Thank you very much. We'll now go to Mrs. Davidson for seven minutes.

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): Thanks very much, Madam Chair.

Thank you very much to the witnesses for being here this morning.

Certainly I appreciate the fact that you've given us this big binder full of information. Unlike my colleague across the way, I haven't had the opportunity to go through it. I look forward to doing that, and I know there will probably be some information in here that I would wish I could have had beforehand, to ask you questions on, but that's not the case.

I'll go ahead with questions on some of the information we've had supplied to this committee before. The one thing I want to say up front is that I don't think there's anybody sitting in this room who's questioning the point that we need to have section 68.1 to protect the integrity of some of your data. I don't think that's in question at all. Certainly if it's information that needs to be protected, then that's fine. I think what we're asking is how much of it is being protected and who is doing that protection? Are there requests being made that are having section 68.1 applied to them without it being further examined?

When we had the commissioner before us, she stated she's concerned with the guidelines for the interpretation of section 68.1, where an access to information request might be refused on the face of it by the person with the delegated authority and that decision could be made on the sole basis of the wording of the request. I think that's what's at the basis of this. We need to know.

Could you clarify the guidelines for us? Are the decisions really made on the basis of the wording of the request? I know that some of that information is probably in the information you've given us, but I'd appreciate it if you could answer that for me this morning, please.

Ms. Maryse Bertrand: Yes. The commissioner's concerns with respect to the guidelines had to do with the fact that some of the requests on their face clearly fall within programming. For example, if somebody wants to know all of the materials that were used for the purposes of making the show *Being Erica*, we don't really have to see the documents to know that all of that is going to fall under programming.

In an attempt to try to save the money to the requester that we have to charge in order to retrieve that information, our initial policy is that when things are absolutely clearly going to be covered by section 68.1, we will not retrieve the documents. The commissioner expressed concerns with that in front of this committee, and we immediately have changed our guidelines. Our guidelines, as you have them in the binder and as they are currently posted on our website, provide that in all circumstances now, we will retrieve the documents, even if on their face they clearly will not be provided to the requester based on section 68.1.

Mrs. Patricia Davidson: Who at CBC makes the decision as to what's captured by section 68.1 and what isn't? There must be some extreme complexities to some of the requests, and you've just alluded to some of that. So because of that complexity, what action has to be taken to ensure that there's a fair and quick reply?

Ms. Maryse Bertrand: That's correct, it is a fairly complex analysis at times.

The person who is charged with that analysis in CBC/Radio-Canada is assistant general counsel. She's a lawyer in my legal department. She is the sole authority in terms of determining whether something falls within section 68.1 or not, and of course she applies the case law and our guidelines to that determination.

To complete the answer in terms of the guideline that Mr. Del Mastro didn't let me finish, our guidelines actually provide that we don't use the case law to the fullest extent. We actually try to release more information than the case law would allow us to redact.

● (0930)

Mr. Hubert T. Lacroix: You actually have in your binder an opinion from Pierre Trudel, who is an independent professor of law, who says that simply based on the reading of the act and our guidelines, we actually give more information than is requested.

Mrs. Patricia Davidson: Does it make a difference who is making the request for the information? Does that play a part in discounting the information request, depending on who makes it, and if it could be important to one requester or not make a difference

Mr. Hubert T. Lacroix: No, not at all.

Ms. Maryse Bertrand: We don't know who the requesters are.

Mrs. Patricia Davidson: Okay.

We had comments made by Ian Morrison when he appeared before this committee. I'm going to quote what he said:

I think they really fear accountability. The expenditure of money on things like entertainment and travel, there should be the same kind of transparency that exists for a department of the Government of Canada.

I'd like to hear what your response is to that statement. I know you have a section in here correcting the record, so maybe some of that is already in there, but could you address that for us this morning, please?

Mr. Hubert T. Lacroix: Frankly, with respect to the information we disclose on travel and meals, we give you the actual receipts. We give you the number. We give you the information on an aggregated value. You see which airplane, which airline company. You see down to the dollar. It's available and it's broken up by quarter. So I think that the accountability there is completely transparent and available to all. If it wasn't, Quebecor wouldn't be putting up the headlines that it is right now with respect to expenses.

Some of the concerns Mr. Morrison had when he showed up in this committee were surprising to us. If you go to page 4 of the “Correcting the Record” piece, under tab number 2, you’ll see our comments on that. If, for example, you want to have information on correspondence that concerns Madam Crowder, we will not give you that information unless you’re Madam Crowder asking about the information that we have between us. Mr. Morrison seemingly forgot that piece when he commented on some of the information not provided to him or his organization.

The Chair: You have nine seconds.

Mrs. Patricia Davidson: Okay. Thank you.

The Chair: We’re now into the five-minute round. Again, a reminder: that includes questions and answers.

Monsieur Boulerice, for five minutes.

[*Translation*]

Mr. Alexandre Boulerice (Rosemont—La Petite-Patrie, NDP): Thank you very much, Madam Chair.

Ms. Bertrand et Mr. Lacroix, thank you very much for being with us this morning. It is greatly appreciated.

As you are a public broadcaster, the majority of your funding comes out of the pockets of taxpayers—not all of it, as is often implied, but a lion’s share. The private broadcasters also receive a share of public funding in some form or another. However, the fact is you are the public broadcaster. For parliamentarians, for taxpayers and for the people, you have a higher level of accountability than the average private business in this country.

However, it is important to understand the environment in which we find ourselves. Your mission, your conditions of licence and your general mandate are also quite different from those of the private broadcasters. Could you, in one minute, tell us what your specific mandates are? What is the special nature of the CBC? What are the conditions and requirements imposed upon you that result in your mission and mandate being different from those of the others?

Mr. Hubert T. Lacroix: Thank you, Mr. Boulerice.

One of the conditions tied to our being the public broadcaster is the responsibility of 65% of our budget coming from public funds, that is to say the government contribution that we receive. The Broadcasting Act imposes a rather complex mission on us which can be summed up in three verbs: inform, enlighten and entertain Canadians. These three verbs are at the very heart of what we do every day.

In 2010, for our five-year strategic plan entitled “2015: Everyone, Every Way.”, we updated those three words. We stated them in the new mission that is at the heart of the plan, as I was saying. We stated that we want to be the undisputed leader in the expression of Canadian culture and the enrichment of democracy in Canada through information that is fair and reasonable, that presents a diversity of voices.

We do things in certain parts of the country, for example in the north or in the regions, that none of the private broadcasters are capable of doing. They are not in a position to do so because their economic model depends on American programming, for anglo-

phone broadcasters, or programming that is very different from ours, if you are talking about TVA.

Canadian programming during prime time is something that no one else offers in English Canada. We have greater presence in the regions, coverage in aboriginal languages, a presence in certain niche sectors or sectors of activity like no other broadcaster has, given that they do not have an economic model that would justify such an investment.

• (0935)

Mr. Alexandre Boulerice: Thank you.

I want to come back to the decision handed down by the Federal Court of Appeal yesterday. On this side of the table, we accept and support the principles of section 68.1 of the Access to Information Act, under which there must be an exclusion for certain subjects. In fact, you are not obliged to make all your information public, particularly when it concerns journalistic work and strategic competitive information that could be of use to your competitors.

However, we do not support your being the party to assess the relevancy of your decision to exclude certain documents. We feel that there should be a third party who decides whether or not you are right in saying that a given document should not be broadcast and made public.

You gave a partial answer to my colleague Mr. Angus earlier on, but would you accept the principle of being assessed by a third party? Would you accept the principle according to which the Information Commissioner would be the person to decide whether you are right or not?

Mr. Hubert T. Lacroix: Under the act, the Information Commissioner is clearly responsible for examining the information submitted to her. As you know, section 68.1 of the Access to Information Act determines if she is to consider the information as an exclusion under the act, as we would.

Moreover, the Federal Court of Appeal brought down a decision yesterday, which we have read. In my opening remarks, I told you that the Federal Court of Appeal dealt with one of the most important points for us: journalistic sources. The court protected them completely from review by the commissioner. We are very happy with that aspect of the decision.

Mr. Alexandre Boulerice: According to the court, journalistic work must be protected. Ms. Davidson said the same thing; we say the same thing; you say the same thing. When Mr. Péladeau appeared here, he said that he had no intention of submitting any requests on journalistic work. Since I have never seen such consensus among all of these people, I wonder where the problem is.

Mr. Hubert T. Lacroix: On journalistic sources and material, I hope there isn’t one.

[*English*]

The Chair: Thank you, Mr. Lacroix and Mr. Boulerice.

Now we have Mr. Calkins for five minutes.

Mr. Blaine Calkins (Wetaskiwin, CPC): Thank you, Madam Chair.

Thank you, Mr. Lacroix, for being here today.

This committee has been seized with this question now for quite some time. My line of questioning is going to pursue the recent court ruling.

I appreciate the fact that you've given us a binder full of information to look at. It's quite nice and well organized—much better and probably more costly than the stuff we get from other witnesses who come here. But I'm just saying that tongue-in-cheek. I appreciate the information.

The question I have for you pertains to what the rationale could have possibly been. The Information Commissioner was before this committee and testified quite clearly that her agency has been totally professional when dealing with access to information requests. It has maintained and respected the integrity and confidentiality of information in certain organizations she has jurisdiction to go to. Yet the CBC has maintained all along that somebody other than the Information Commissioner should be making the determinations.

Your position was clearly not upheld in the decision yesterday. We can talk around it however you want, but the reality is that the information that came down yesterday clearly states that the Information Commissioner does have the ability to do that.

What was the rationale for pursuing the line of challenging this in the court? Clearly the legislation lays it out. Section 68.1 has been around for a long time. It has been well tested in the courts. We've heard other people speculate on what the rationale of the CBC might have been when it comes to this.

What has the Information Commissioner's office done to give you such grave concern that you would not allow that office the opportunity to examine the requests and information to determine what could be released in the public domain? What is in the nature of that relationship that's causing so much concern?

● (0940)

Ms. Maryse Bertrand: One thing that has been made clear by the Federal Court of Appeal decision is that the law was anything but clear. We were trying to get clarification, and that's what we've received. The judgment actually states that in a number of instances.

The philosophical objection we had to the commissioner looking at the documents had nothing to do with our programming activities; it had to do with our journalistic activities. But the law lumped them together. So if we wanted to have a debate with the commissioner about the journalistic piece, we unfortunately had to have a debate over everything.

Philosophically, we certainly don't have any objection to the commissioner looking at our programming material. As we said in the statement that was released yesterday, and as Mr. Lacroix said in his remarks this morning, our main concern was the journalistic sources and material.

Mr. Blaine Calkins: I have to be honest that I'm not totally satisfied with your answer. I appreciate that you have a vested interest in coming here and putting the best face you can on this. I'm a little bit frustrated by it, but I sincerely hope....

I'm going to make a small statement here. How much time do I have left, Madam Chair?

The Chair: You have one minute and 33 seconds.

Mr. Blaine Calkins: That's good.

I sincerely hope for the sake of taxpayers that the CBC, after looking at this ruling and doing an assessment—and that's your legal department and your right to do that—will be looking at this. For the sake of taxpayers, I sincerely hope that this doesn't go any further in terms of appeals.

We've had experts here testifying that the law has been clear, that section 68.1 has been tried, tested, and true, and that there is adequate case law protecting journalist integrity. There's been case law from the Supreme Court protecting journalistic integrity. I'm not so sure what the issue here is.

I have to tell you that what has transpired here just looks so bad for the CBC. The optics and everything surrounding it look so bad that, for policy-makers sitting around this table and for people who spend money on behalf of taxpayers, you're putting us in a difficult situation when trying to defend the public or state broadcasting system. It would really be a black eye, unless there is something you could provide me here that would rationalize going on and pursuing an appeal beyond what's already transpired. It's very frustrating.

My last question is going to be to you, Mr. Lacroix, regarding expense accounts. I appreciate the fact that you've outlined your expense accounts and you've given some very clear examples of your particular expense accounts. What percentage of CBC employees actually have to disclose these kinds of expense accounts? Do any of the people who are employed in the programming or journalistic activities have expense accounts that wouldn't be otherwise opposed to access to information based on journalistic integrity?

The Chair: Mr. Calkins has actually used up his time.

Mr. Lacroix, I'll allow you a very brief response.

Mr. Hubert T. Lacroix: Madam Chair, there's an important point that's been raised here that I would ask you to give me a couple of seconds to address.

The Chair: Please do so briefly.

Mr. Hubert T. Lacroix: Sir, in section 68.1 it says that the information in the review was excluded. There was an exclusion there. This was the reason why we took this to the court—in the same fashion that the Prime Minister, two ministries, and the RCMP took a case all the way up to the Supreme Court—

The Chair: I'll have to ask you to wrap it up, Mr. Lacroix. Perhaps one of the other witnesses will allow you to clarify this.

I do need to correct some information. Monsieur Lacroix and the CBC did not ask to appear before the committee; the committee asked them to appear as a witness. I just wanted to correct that.

Mr. Dusseault, for five minutes.

[*Translation*]

Mr. Pierre-Luc Dusseault (Sherbrooke, NDP): Thank you, Madam Chair.

I want to thank Ms. Bertrand and Mr. Lacroix for coming this morning.

We share with the members opposite the view that since you receive public funding, you must be accountable. Parliament created the Access to Information Act, which provides access to certain documents in the public domain.

In looking at the way your competitors are using the act, do you believe that they truly want to serve public interest, or do you think that they are using it most of the time to serve their corporate interest? Do you think that they are using an act that was put in place to serve public interest for their own purposes?

• (0945)

Mr. Hubert T. Lacroix: My role is not to determine the intention of people using the system.

However, I see some odd requests. A representative from the Canadian Taxpayers Federation who appeared before your committee told you that he had submitted a request to test the system.

[English]

I think those were his words.

[Translation]

Mr. Dusseault, he sent in a request to find out the name and address of the president of the CBC. The system sent him an answer. I am not convinced that testing a system that way is making good use of it.

Suppose a competitor sends one of their announcers or feature performers into the hall of our building in Toronto to make a scene, and then goes back home to submit an access to information request to see what was said about the scene. In that case, I am not convinced that the system is being used properly. But that is my personal opinion.

Far be it from me to impute motive to people who want to make a fair and reasonable request under the Access to Information Act. My opinion goes back to your initial remark. As I have repeated many times, we fully agree that the public broadcaster must be subject to the Access to Information Act for all matters dealing with general administration.

Mr. Pierre-Luc Dusseault: There is also the fact that some people often send in several access to information requests at the same time. You said something somewhat surprising. You said that Mr. Drapeau's office had submitted 72 requests the same day. Is that a common occurrence? Is that one of the reasons why you didn't do as well as you would have hoped to do? Perhaps it is a tactic to try and slow down your system for processing access to information requests.

Mr. Hubert T. Lacroix: Once again, I invite committee members to open the document we handed out and to turn to page 3 at Tab 2. You will see what Mr. Drapeau told you about the 971 requests he submitted. He was asked how many he had submitted at one time, and his response was the following:

[English]

“Eight, nine. It may be more than that, yes.”

Well, on page three,

[Translation]

you will see that there were more than 8 or 9. At times, there were 72, 44, 20, 26, and 38. During the first six months that the corporation was subject to the Access to Information Act, Mr. Drapeau submitted 491 requests.

We were clearly not prepared for that. However, we acted diligently. We consulted other government departments that were subject to the Access to Information Act. We looked at England to determine the scope of the resources the BBC had devoted to that. We were therefore prepared for a reasonable number of requests, and we were clearly astonished by the number of requests that were made.

Mr. Pierre-Luc Dusseault: You also said that proactive disclosure would soon be used in several departments. As I read in your document, you appear to be in the forefront on proactive disclosure. So you have taken steps to be more and more open and ready to be accountable to the public.

Do you think that is because you did so before the other departments?

Ms. Maryse Bertrand: Yes. For a year, we have been posting all of the public interest requests and all of the answers provided for these requests on our website. They are not summaries. The requests and answers are published in their entirety.

[English]

The Chair: Time is essentially up. You've got two seconds.

Mr. Del Mastro, for five minutes.

Mr. Dean Del Mastro: Thank you very much. I'll be sharing my time with Mr. Dreeshen.

Mr. Lacroix, I made the case in Parliament as recently as Friday that the average family of four in my riding gives the CBC the equivalent of a week's groceries. That's what they contribute to the CBC. I'm kind of astonished with something, and this is where I think Mr. Caulkins was going. Ultimately, you're defining programming, you're defining creative activities, you're defining journalism so broadly that if you went for lunch with somebody in your marketing department or in your programming department, and it went on their credit card, there'd be no transparency for that. Zero. It would depend on whose credit card it goes on, and who gets reimbursed.

That's the truth. And when you say before the committee that how much you're spending on advertising George Stroumboulopoulos on billboards or for a special launch of a season at TIFF will never be made public, well, the public wasn't invited to the special party at TIFF, but the public paid for it, and I think the public deserves to know what the relationship... I don't understand what the relationship is between George Stroumboulopoulos's show and TIFF, but what I can say is that if there was a significant amount of money spent, I don't understand why that shouldn't be made available to the public to understand how much you've spent on it.

But even more importantly, when you say that you're subject to Auditor General's reviews and audited statements, I did four years of university business education, and I can tell you that an aggregated financial statement does not provide any kind of transparency in the regard I've just spoken to. It simply puts all the numbers together in a big heap that can account for everything. It doesn't provide the kind of transparency somebody in my riding might ask for, someone who is providing you with the equivalent of a week's groceries for their family and is seeking that kind of transparency. It does absolutely nothing to provide that for them.

● (0950)

Mr. Hubert T. Lacroix: Monsieur Del Mastro, you have a few points. I'm going to ask Maryse to deal with the definition of programming first, and I would like then to deal with TIFF and the \$34 that each Canadian gives us to fund the broadcaster, because that's the number, \$34 per Canadian for all the services that we render.

Ms. Maryse Bertrand: The interpretation of programming is not our interpretation; it's the Supreme Court's interpretation in the case of CKOY, and that has been the law in this country since 1980.

Mr. Hubert T. Lacroix: We're not the ones deciding what programming is and isn't. There are some rules, some criteria. They come from the Supreme Court. So let's park this for a second.

Can I come to TIFF, the Toronto International Film Festival, sir?

When I talked about exaggerating, our friends at Quebecor floated the idea that we had spent a million bucks on a party at TIFF. That's the way they put it.

We launch shows every year. George's show is the most important evening, one-on-one interview show in prime time. When I saw that number, I was impressed, because it means a complete disconnect with what a party can cost. And it wasn't a party; it was a launch. We chose that time to give it maximum exposure.

I'll tell you what that cost, sir. It cost the equivalent for us of putting one ad in the Sun Media newspapers in five cities in this country. So if you want to know, without my disclosing how we do corporate events, how we do launches, how we get the sponsorships, who covered some of the out-of-pocket expenses—because if we do this well, we should be applauded for that... People on this committee should congratulate CBC/Radio-Canada for a smart investment of money by being able to launch a show of that importance, on that platform, hooking it into TIFF, with some of the people who will end up on George's show there to promote it. That was smart, spectacular.

The cost to CBC, out of pocket, was the equivalent of one ad in five Sun Media newspapers.

Mr. Dean Del Mastro: For the record, it has been established around \$225,000.

Mr. Hubert T. Lacroix: No, sir, \$64,000, if you do the ad.

Mr. Dean Del Mastro: Sixty-four thousand dollars?

Mr. Hubert T. Lacroix: Yes, that's the number.

Mr. Dean Del Mastro: Mr. Dreeshen.

The Chair: You've got 20 seconds, Mr. Dreeshen.

Mr. Dean Del Mastro: We'll recommence with Mr. Dreeshen in the next round.

Mr. Earl Dreeshen (Red Deer, CPC): Thank you very much.

Perhaps in my 20 seconds I won't have time to get into the detail I had wanted to, so I'll save that for another question.

You were talking about poaching and so on. I'm looking at *The Lang and O'Leary Exchange*. Obviously you had to find out how much they were being paid or what the costs were when they were with BNN. There must be some way.

● (0955)

The Chair: Mr. Dreeshen, your time is up. I'll allow Mr. Lacroix a very brief response.

Mr. Earl Dreeshen: Certainly.

Mr. Hubert T. Lacroix: I'm not sure there is a question there, sir. If the question is how we got people to cross over and work for us, maybe they wanted to work for CBC, the public broadcaster, and what we bring to Canadians.

The Chair: Thank you, Mr. Lacroix.

Thank you, Mr. Dreeshen.

Mr. Boulerice, for five minutes.

[*Translation*]

Mr. Alexandre Boulerice: Thank you very much, Madam Chair.

By way of introduction, I would like to mention that I am astonished to hear Mr. Del Mastro talk about who CBC/Radio-Canada should invite or not invite to its events. In fact, during the election campaign, the Conservative Party refused to allow people to attend its events simply because they had been seen at events organized by the Liberal Party or the NDP. I don't think he is in a position to teach anyone anything about who should be invited to events.

Mr. Lacroix, to go back to the heart of the matter, I would like to ask you a question. Your lovely Tab 1D deals with access to information performance as of November 22, 2011. The page is very nice. In looking at it, I get the impression that there are no problems and that above all, there have never been any problems, whereas that is not exactly the situation. There were problems.

If we had the same page for 2008, 2009, or 2010, the picture would be quite different. Earlier, you said that you were not prepared for the deluge of requests you received. At the same time, it was your responsibility to be prepared.

Why did it take so long for you to put in place the necessary resources to comply with the obligations of the act?

Mr. Hubert T. Lacroix: This is how things unfolded.

We diligently looked into the matter. I explained to you that we looked at the situation in England. The BBC, which is five times larger than us, was receiving approximately 80 requests per month. We considered that the population in England is 70 million whereas in Canada it is 35 million, in other words half.

So, without knowing quite what to expect, because until that point we had never been subject to the act, we got prepared to deal with that, with a team of three or four people, I believe.

Obviously, we were caught completely by surprise. And I should add, we were not the only ones. People at the Access to Information and Privacy Office were also caught by surprise. We had to sit down and work to respond all of a sudden to 500 or 600 requests we received in the first three or four months.

There was a bottleneck at the commissioner's office and in our offices. Since then, we have learned some lessons and have improved. I'll be the first to admit that we were not good at it, but that we have made a great deal of progress since then.

This is why I am proud to point you to Tab 1D. We got an F grade for performance in the first few months, but I can assure you that we are working very hard so as not to get the same grade the next time the commissioner examines the matter.

Mr. Alexandre Boulerice: I would like to ask another question.

Recently, I met with employee representatives from Radio-Canada in Montreal and in Moncton who were rather concerned about their future and the future of your institution. They showed me a document that clearly showed that, since the early 1990s, there has been a drastic decrease in CBC/Radio-Canada's budget, in constant dollars. It was approximately 50% of the value of what you receive from Canadian taxpayers. In real terms, you are receiving less and less money.

Moreover, there is an expectation of cutbacks within all government departments in the order of 5% to 10%. Your regular programming and your obligations, as a public broadcaster, are unique and quite specific. You also have significant costs to bear for the shift to digital technology.

How will you manage this challenge without layoffs, a drop in Canadian programming, a drop in the quality of your programming? That is quite a challenge. You are receiving less and less funding, you must deal with cutbacks, and you have to pay for the digital shift.

Mr. Hubert T. Lacroix: We never appeared before the Standing Committee on Heritage or the government to ask for more funding for our 2015 strategic plan.

We are fully aware of what is happening in Ottawa and we have taken part actively and collegially in the exercise requiring that we present two scenarios, one a 5% cutback scenario, as well as a 10% cutback scenario, in the context of reducing the deficit.

Certainly a significant reduction in our government funding will have an impact. However, we have told everyone that we would be able to fund our 2015 strategic plan on our own. We have to make adjustments to our way of doing business. Some services will no longer be central for our 2015 plan and we may have to leave them

aside. Some radio and television positions may be transferred to our new digital platforms. All this to say that—

[English]

this is not about money. Right now, this is about accountability.

• (1000)

[Translation]

Mr. Alexandre Boulerice: How much time do I have left?

[English]

The Chair: You have 30 seconds.

[Translation]

Mr. Alexandre Boulerice: I am asking my next question as a father. Do you intend to cut back on your children's programming?

Mr. Hubert T. Lacroix: I have two little girls, one three-and-a-half years old and the other six months. I am very proud of our children's programming, both at CBC and at Radio-Canada. All aspects of our programming will be reviewed. I share your appreciation for our youth programs and navigating our websites to see our youth programming.

[English]

The Chair: Thank you, Mr. Lacroix.

Mr. Dreeshan.

Mr. Earl Dreeshan: Thank you.

Maybe I'll have a little more time to expand upon where I want to go. Anyway, I appreciate what you mentioned for the last question I posed as well as your ability to get there without my being able to give the details.

I want to talk a bit about national and local programming and how it relates to section 68.1. I come from Red Deer, Alberta, where we lost all our local programming. I know that a lot of people there were very concerned about that. If someone were to ask for the rationale for your leaving a local market such as that, could this information have been obtained under section 68.1, or would it have been considered "journalistic"?

Mr. Hubert T. Lacroix: Frankly, it depends on how your question would have been worded. We're very open about what we want to do with the regions right now. We want to go back in the regions. It's very much core to the plan. The plan is Canadian programming in prime time, and a much better connection with the seven million Canadian who we think are underserved or not served by CBC/Radio Canada. This is why you've heard us announce three different phases of our local extension plan right now. Alberta and the western provinces are key because we have realized where the population has shifted, the demographics of this country. We think we are not doing as good a job as we could in local communities such as Red Deer, Alberta.

Mr. Earl Dreeshan: I guess that's the point, because we did have a CBC station at one time.

Mr. Hubert T. Lacroix: I wasn't there when that happened.

Mr. Earl Dreeshen: About our only connection right now is Ron MacLean. People are quite concerned about it. About a year ago now, and maybe not even in your term, an event took place in Fort McMurray that I attended. All of the other different news stations would come with their van. CBC came, and it looked like it was a champagne-type programming they were going through. The costs were so out of touch between the private companies and corporations. Therefore, people look at that and say, "Couldn't this have been done in a little bit more reasonable manner?" Again, if you asked for the costs for things like that, would that be covered under section 68.1?

Mr. Hubert T. Lacroix: Unfortunately, you're bringing anecdotal evidence to me. I'm not sure what that means. I assume that no other broadcaster is in Red Deer, Alberta. Right?

Mr. Earl Dreeshen: This was a different one. This is a situation where everybody decided to go to another job in Fort McMurray.

Mr. Hubert T. Lacroix: I can assure you right now that the way we cover events is as efficient as we've ever been. I'd like to remind this committee that we have two networks, *en français et en anglais*. We have radio platforms, television platforms, and we have the Internet that we feed now constantly, 24 hours a day, seven days a week. So no other broadcaster does what we do.

I'm not justifying what happened on that day because I don't know what happened. But I would like to put into perspective the scope of the services of CBC/Radio-Canada. If we cover one story somewhere in the country, we do it in the most efficient way possible.

Mr. Earl Dreeshen: Another point.... I was reading through your "Correcting the Record" section on point 2 of page 4. I know you both said you don't know who the requesters are. And I have to admit when I first looked at it, it said because Mr. Morrison hadn't identified himself, or the Friends of Canadian Broadcasting, that was the reason he got no response. When I first looked at it I was concerned that it doesn't matter who it is that is requesting. But I realized from reading further on that this indeed isn't the case. However, there certainly was a frustration by Mr. Morrison when he came here speaking about the fact that they weren't able to get information regarding accountability, entertainment, travel, and those types of expenses.

I wonder if you could comment somewhat on it. I know that you're perhaps looking more so at one of the key components that he mentioned in the committee. There is just this general feeling that if they as Friends of CBC want to see you succeed, they think perhaps you should be a little more forthcoming with the information that you present.

• (1005)

Mr. Hubert T. Lacroix: Thank you for that.

Madam Chairman, I'd like to make a point very clear. The Friends of Canadian Broadcasting are not friends of CBC. We have no link with this organization whatsoever. I've never spoken to Mr. Morrison. I've never had conversations with Mr. Morrison. I don't know this gentleman.

I was actually pretty blown away when, if you look at page 5 of the same document, Mr. Morrison said:

President Lacroix recently dismissed, or constructively dismissed SRC's Ombudsman. President Lacroix has a lot of power and without the accountability.

Where did that come from? I didn't fire Julie Miville-Dechêne. She went to a government-appointed position and now is *présidente du Conseil du statut de la femme* in Quebec, a very important organization with 80 people under her leadership. She decided to do this because it was a great opportunity for her. You just don't pick up the phone, cross the street, and become a government-appointed person of that stature without wanting this position.

This is the kind of credibility I have concerns about when Mr. Morrison.... And there's more there if you want to read it. I have an issue with those kinds of comments.

The Chair: Thank you, Mr. Dreeshen.

Thank you, Mr. Lacroix.

Mr. Scarpaleggia.

[Translation]

Mr. Francis Scarpaleggia: Thank you, Madam Chair.

Mr. Lacroix, you were interrupted earlier on because time had run out. Mr. Calkins, I believe, had just mentioned that until now there had been enough decisions handed down by various courts, including the Supreme Court, that should have reassured you on the fact that journalistic sources would be protected from any request for information.

Would you like to take this opportunity to answer that question?

Mr. Hubert T. Lacroix: I want to thank you for giving me this opportunity.

I was asked why we continued to turn to the courts whereas our concern only affected journalistic material, which is already protected under other pieces of legislation.

I would simply remind you that section 68.1 specifies that all requests regarding our programming, our creative activities and our journalistic sources are excluded from the act. We therefore understood, in good faith, that if something was excluded, there was no reason why someone should see that material. The excluded material is in the red binder. The rest in the yellow binder. If it is excluded, why should someone ask to see it? For example, we could be asked to share the production costs of the show, *Les enfants de la télé*. For those kinds of questions, the answer was automatic for us.

Even the chair of the CRTC, whom you invited to appear here, told you that there was a material legal dispute that warranted obtaining the opinion of the court. That is what I wanted to add. It was not in bad faith. Our reading, in good faith, of that section led us to conclude that the requests were excluded pursuant to the Access to Information Act.

Did you want to add something, Ms. Bertrand?

Ms. Maryse Bertrand: In fact, four Federal Court judges also agreed with the chair of the CRTC, that the legislation was not clear on this issue.

Mr. Hubert T. Lacroix: The Information Commissioner went before the court 180 times to try and interpret the legislation, following all kinds of requests that came from federal entities or entities subject to the Access to Information Act. In an effort to protect our right to a clear interpretation, we found ourselves before the court.

Mr. Francis Scarpaleggia: Yesterday, were you given a clearer interpretation than that rendered by other courts?

• (1010)

Mr. Hubert T. Lacroix: Absolutely.

Mr. Francis Scarpaleggia: Pardon me for not being aware of all this. At this point in time, if someone files an access to information request and there is a disagreement between the two of you, because you do not believe that the information should be disclosed, does that person have no appeal body to turn to other than the court? Can that person turn to the Information Commissioner?

Ms. Maryse Bertrand: Yes. Furthermore, complaints that were filed with the commissioner may be resolved now that the Court of Appeal has rendered a decision.

Mr. Francis Scarpaleggia: So normally, there is a third party?

Ms. Maryse Bertrand: Absolutely.

Mr. Francis Scarpaleggia: Is there usually an arbitrator?

Ms. Maryse Bertrand: Yes.

Mr. Francis Scarpaleggia: In that case, I do not quite understand Mr. Boulerice's comments. Pardon me.

I am coming to my last question. We now know that the commissioner will review the requests for information that she received. If she hands down one or more decisions that do not suit you, will you go to court? Perhaps it is too soon to give an answer.

Ms. Maryse Bertrand: It is difficult to answer hypothetical questions. We look at the nature of the dispute, if there is one, and make a decision at that point.

Mr. Francis Scarpaleggia: All right.

I would like to ask one final question, Madam Chair.

[*English*]

The Chair: You have five seconds.

[*Translation*]

Mr. Francis Scarpaleggia: Mr. Del Mastro appears to have gotten the facts wrong before committee on several occasions. He is a good sport and normally does rather rigorous work.

Mr. Hubert T. Lacroix: All I can say on that is perhaps the information Mr. Del Mastro had, for example regarding the cost of advertising in Sun Media newspapers, was not the information we were familiar with. Perhaps his information was somewhat dated. I am in no way presuming that Mr. Del Mastro was acting in bad faith when he provided that figure. I simply want to make sure, Madam Chair, that the figure is right.

I can tell you straightaway that it is highly uncommon for us to give an idea of the cost of an event like that one, because it is an advantage we give our competitors. If we can hold an event like that for a price like that, we do not want people to be able to take advantage of our know-how.

Mr. Francis Scarpaleggia: Thank you, Madam Chair.

[*English*]

The Chair: Thank you. Your time is up.

Mr. Butt, you have five minutes.

Mr. Brad Butt (Mississauga—Streetsville, CPC): Thank you very much, Madam Chair.

Good morning, Madame Bertrand and Monsieur Lacroix. Thank you very much for being here.

The CBC, predominantly through your news department, must file hundreds of FOI requests every year, as an organization, to other bodies where you're seeking to get information, I assume.

Mr. Hubert T. Lacroix: That's the job that surely our journalists are hired to do, which is to do the best possible journalism. If access to information requests happen to be a tool for them to go deeper into a story, I assume they would, yes.

Mr. Brad Butt: So your expectation would be that those requests would be acted upon in a reasonable and an appropriate timeframe, when those are being requested. That would be your expectation as a client of the process, let's say.

Mr. Hubert T. Lacroix: Within the law. Yes.

Mr. Brad Butt: The Information Commissioner has a philosophy, and her philosophy is generally "when in doubt, disclose". Would you say the CBC lives up to that philosophy—when in doubt, disclose?

Mr. Hubert T. Lacroix: Maryse will tell you the spirit of our guidelines. I will simply remind you that as I said a few minutes ago, we wanted to make sure our guidelines were vetted and reviewed by somebody from outside of the organization, so that we wouldn't be so excited about our guidelines because we wrote them that we would forget what was the spirit of the guidelines. So we went outside, and Professor Trudel—and you have his opinion here—said not only do we respect the law and the spirit of the law, but we actually go way beyond the law and we're actually disclosing more.

So to answer your question, yes, I think we understand what that is and how it works.

Maryse, would you like to add something?

Ms. Maryse Bertrand: I would just direct you to page 6 of the materials, which is the text of our guidelines. The second paragraph says that when in doubt, the documents will be disclosed.

Mr. Brad Butt: How many staff do you have working in the department that deals with information requests?

Ms. Maryse Bertrand: There are seven people, plus the assistant general counsel, who supervises the application, and me.

Mr. Brad Butt: I realize that the court decision was just yesterday, but I think it is providing a lot more clarity for everybody, and I think that's been a good thing. As result of that, do you see any general operational changes with respect to requests that come in?

We have two issues here. One is a basic request that comes in to CBC. You're willing to comply. It's no issue. The Information Commissioner doesn't even get involved. She only gets involved when you refuse to provide information and the requester is not satisfied and then goes to the Information Commissioner. So you have two processes.

I would assume that for most of the vast majority of requests that come in, your department deals them, you get the information back to the requester, and life goes on. There are some, obviously, that you refuse, under either section 68.1 or other provisions. You refuse to provide the request, and then obviously the Information Commissioner gets involved if the requester wants further recourse.

Do you feel that your staffing level, your processes now, especially with what we've learned from both the first court case and the second, which I think has provided a lot more clarity, are ramped up so that your compliance rate will be much better than it's been in the past? Will your turnaround time be much better than it's been in the past? And do you believe that you won't use the rubber stamp of section 68.1 on all of these requests in the future, because you have a lot more clarity now?

• (1015)

Ms. Maryse Bertrand: That's correct. I mean, we've almost doubled the number of people who work in access to information. That's why our record, as you see from our material, shows indisputably that we've improved incredibly, to the point that our deemed refusal rate now is less than five percent, which is technically an A rating from the commissioner. In terms of having the necessary resources, I'm satisfied that we are staffed adequately to deal with the level of complaints we have, including the ones that are now going to be liberated by the clarity the Federal Court of Appeal has given to the process.

Mr. Brad Butt: Okay. Thank you very much for answering those questions. I'll stand down.

The Chair: We'll go to Mr. Angus, for five.

Mr. Charlie Angus: Thank you very much.

I'm sure that you are aware, from covering the testimony, that we've had a number of different points of view. One of the interesting presenters was Mr. von Finckenstein, from the CRTC. Unfortunately, we didn't get to go into too much depth with some of Mr. von Finckenstein's testimony.

I've always maintained that if you are looking for a black hole of accountability in terms of transparency, look no further than the CRTC. They regularly deny every single access to information request that has anything to do with broadcast spending—anything to do with whether broadcast entities are meeting the conditions of their licences, questions about their local programming, whether they actually hire, or how many journalists they have. When we asked Mr. von Finckenstein why they just put a big black mark across any of these information requests, he said that he goes to the broadcasters, and if the broadcasters say that they're not giving it out, then that's it; none of it is given out.

It's a concern for me, because Canadians pay millions of dollars a year to help programming on private and public stations. Canadians, through government programs and conditions of licence, have given

both the private broadcasters and the public broadcaster a market free from a lot of competition by ensuring that we have the local programming improvement fund. We have section 6 and section 19.1 of the tax code. We've created an entire system to allow companies to do extremely well. Yet they can simply say no, they don't want the public to have any information on what they're actually spending and on whether they're meeting the conditions of their licences. We are aware that in some of them, such as in local programming, Quebecor just blanket says no.

What is CBC's response to giving that kind of information through the CRTC?

Mr. Hubert T. Lacroix: We share your interest. And we are on the record—and Konrad, the chair, actually said this to you—that we actually wanted to disclose how we spend the local programming improvement fund money that we have access to or use in the context of that fund.

I think it's important. Rogers also stepped up and said yes, let's disclose it so that people who actually pay for the LPIF money.... As you know, everybody in this room who has a satellite bill or a cable company bill is paying for the LPIF, because there is a line on it. So we might as well tell the world what we're doing with those dollars. We're absolutely fine with this. We encourage you and this committee, and we encourage people who would like to see more LPIF disclosure to go that way.

• (1020)

Mr. Charlie Angus: Across our country we have a real mix in terms of servicing local needs. I'm not talking about national programming here. In my region in northern Ontario, CTV does excellent news coverage for the region. We don't have CBC television. For our francophone service we rely on Radio-Canada for television, but in terms of radio, CBC/Radio-Canada plays an essential role. If we lost our service out of Sudbury, our rural francophone communities would be just cast adrift.

I'm concerned, given the last round of cutbacks at CBC—because your attempt to get that bridge financing wasn't approved by the government—that it had a major effect on radio programming and it affected the regions.

What would the effect of a 10% or a 20% cut in the upcoming federal budget do to your ability to service the regions of the country and especially to francophone communities outside of Quebec, that those services will be maintained at the level they have been historically?

Mr. Hubert T. Lacroix: The national public broadcaster realizes the importance of being in the regions. It's the second very important thrust of our 2015 strategy. We understand also the need to respect the minority language communities across the country.

I don't know what the cut is going to be. We have submitted the proposals, as I said, under the deficit reduction action plan in a very engaged way. We explained what we think would be the impact. At one point in time the numbers don't make sense any more and it's no longer about efficiencies, it has to do with programs and services.

So if I can, I'd like to reserve the answer to that question until I see what the numbers are. I don't know what the numbers are right now.

Mr. Charlie Angus: You must be making a plan, though.

Mr. Hubert T. Lacroix: Oh, yes, we are making plans. Like any smart and reasonable management team and board and strategic community board, we understand what that would mean to us and we're trying to see whether we can improve on the first pass in trying to take the body blow of a substantial cut in our revenues.

The Chair: Thank you, Mr. Lacroix.

Mr. Mayes, for five minutes.

Mr. Colin Mayes (Okanagan—Shuswap, CPC): Thank you, Madam Chair.

Thank you to our witnesses for being here.

I think we're crossing over two different issues. One is transparency and the other is accountability. Transparency means the openness of providing information for public view, and the issue was around the scope of that transparency. But accountability is somewhat different. Just because you're open with your numbers doesn't necessarily mean you're being accountable. I think there is a difference and I think that's the issue at hand when you talk about CBC being attacked.

Of course the private broadcaster is held accountable by its shareholders and by its profit on the bottom line. You're running a public broadcaster at a \$1.1-billion deficit, a loss. But you have a different mandate, and I know there is a different landscape you are actually working under. As a former northerner who enjoyed CBC in the north, where other broadcasters were not giving that service, it was great.

The issue is accountability under your leadership and what's going to happen here through this opportunity for the public to see more transparent information regarding the operation of CBC. You're going to have some challenges explaining the accountability.

You're in the business of communication. You have done a great job this morning of explaining to me some of the issues of the accountability in some of the expenses and things CBC does. But there are your shareholders out there, the public, and I don't think CBC has necessarily done a great job in communicating that accountability. The fact is, the application for access to information has brought into view that people want to see that accountability.

That's the question to you, sir. Do you see a program or something you're going to be able to do with the corporation to provide a little better accountability to Canadians and justify your operation?

•(1025)

Mr. Hubert T. Lacroix: Madam Chairman, I welcome any question on accountability. Actually, I really enjoy talking about accountability and governance, because we realize the importance of receiving \$1.1 billion from taxpayers and making sure they understand the value of the \$34 each Canadian gives to CBC, allowing it to deliver the services it does—in two official languages across six time zones, in a country as large as ours.

Here's what we've done to be more accountable and to deal with this. We now, on a quarterly basis, publish financial statements and 102 pages of accompanying explanations, in the same very clear way that the public companies of this world are actually reporting to their shareholders. We have an annual general meeting that we put online.

Everybody is invited; you can hear us explain what's going on at CBC/Radio-Canada.

The economic model of the other broadcasters is such that they can't do what we do. I told you about that, and you referred to that exactly: up north, there's only one broadcaster—us. So when we talk about a loss, it shows you that the model is broken, because it's actually an investment by the government to connect Canadians together and tell our stories. It's an investment for the person in St. John's, Newfoundland, to understand what's going on in Red Deer, Alberta, or to find out what happened in Victoria yesterday. That's what the broadcaster does, in an infrastructure that is significantly larger than any other infrastructure in the world. We also just spent some \$60-some million trying to go into the digital world.

That's what we do, and that's why, when I hear our friends at Quebecor always saying that this is a loss, actually I think it's a spectacular investment by Canadians into the broadcaster: to allow us to be the glue in this country, connecting stories from Canadian to Canadian.

Mr. Colin Mayes: I'll share my time with Madam Smith.

The Chair: You have 20 seconds.

Mrs. Joy Smith (Kildonan—St. Paul, CPC): Well, with 20 seconds, I really don't have that much time at all so I'll pass on it.

The Chair: Are you finished there, Mr. Mayes?

Mr. Colin Mayes: I think so.

The Chair: Mr. Scarpaleggia.

Mr. Francis Scarpaleggia: I have nothing to add.

The Chair: Mr. Boulerice or Monsieur Dusseault.

[*Translation*]

Mr. Alexandre Boulerice: Thank you, Madam Chair. I will be sharing my time with my colleague.

A little earlier on, you said that you were not prepared for the deluge of access to information requests that you received. In 2007, you took steps to remediate the situation and to attempt to be more transparent.

I would like to know your opinion on what you think explains this sudden and unlikely deluge of requests, which did not correspond to the situation facing other broadcasters who were in the same situation as you elsewhere in the world.

I am looking more for your opinion than the facts. How do you see that?

Mr. Hubert T. Lacroix: The answer is simple. We received 491 requests from Mr. Drapeau's office during the first six months that we were subject to the Access to Information Act.

We took a look at the BBC. The population of England

[*English*]

is about 70 million people. The BBC get about 80 requests per month; we figured half of that.

[Translation]

So we were prepared to receive 40 requests. Initially, we assigned three people to that task. Clearly, we did not anticipate how interested our friends at Quebecor would be in our activities and operations.

Mr. Alexandre Boulerice: I have another question.

A little earlier, you said that you were proactive, that you posted documents on the Web and that you were also obliged to answer questions before parliamentary committees. You must appear here, for example.

In addition, the Auditor General must examine your records. I would like greater detail on the Auditor General's role. How does that work? How often does the Auditor General audit you? What does he look for? What does he tell you to correct?

Mr. Hubert T. Lacroix: At the corporation, the Auditor General plays the same role as the large accounting firms in any public company.

The Auditor General normally sits down with us in January or February. As you know, CBC/Radio-Canada's fiscal year ends March 31. His team comes to see us, looks at how our money has been spent, what accounting systems we are using and how we report our financial statements, our balance sheet as well as our expenses and revenues.

Finally, in accordance with the accounting principles which apply to the corporation and which are clearly defined in our annual report, he signs an unqualified opinion, which has always been the case for CBC/Radio-Canada, at least during my mandate.

• (1030)

Mr. Alexandre Boulerice: Madam Chair, I will give the floor to my colleague.

Mr. Pierre-Luc Dusseault: Thank you.

You mentioned the members of the board and certain committees. You said that they were appointed by the government and that at present, they were all people appointed by the Conservative government.

Did they have a role to play in the legal battle you led?

Mr. Hubert T. Lacroix: CBC/Radio-Canada directors are appointed by the government. That has always been the case. Their role is the same as the role of any director on any board. They have a legal obligation for oversight. The work is done through various committees, including the Audit Committee, for our figures; the Governance Committee for the way we are managed; the Human Resources Committee for reviewing salaries for management, our incentive plans and all employment issues; and the Real Estate Committee, which oversees the way our buildings are managed. All of that is done under the governance of our vice-president, Maryse Bertrand.

What could you add on the role the board plays on a daily basis?

Ms. Maryse Bertrand: The board, especially the Audit Committee, carefully monitors all corporate risks, including risks related to litigation. We make a presentation to the legal services, the board and the Audit Committee at least once a year. Each quarter, we

do an update on the annual report, on the state of litigation, and we submit that to them.

Mr. Pierre-Luc Dusseault: So the government can put in place certain people to monitor what is happening.

Mr. Hubert T. Lacroix: Mr. Dusseault, I would like to make a distinction.

Once the people are appointed by the government, they no longer report to the government. There is no longer a link. No one on the board is the eyes or ears of the government. These people are accountable to us and to the corporation. The board, the government and the various parties that manage the corporation are completely independent.

[English]

The Chair: You have ten seconds.

[Translation]

Mr. Pierre-Luc Dusseault: You mentioned other departments that are before the courts for the same reason, in order to protect certain confidential documents. Given the recent decision, do you think that these departments should be more proactive, and disclose more of the information they often try to hide for departmental reasons?

[English]

The Chair: A brief response, please.

[Translation]

Mr. Hubert T. Lacroix: Our challenge, before the court, dealt simply with section 68.1 and the way it applies to us. I don't think anyone has any lessons to learn from the conclusions of the decision apart from the commissioner and ourselves, Madam Chair.

[English]

The Chair: Thank you, Mr. Lacroix.

Mr. Del Mastro.

Mr. Dean Del Mastro: Mr. Lacroix, the chairman of the CRTC, the Information Commissioner, and in fact Justice Boivin in his ruling all determined that section 68.1 could, or should, be redrafted. I think that's something this committee needs to address in its report on this matter.

There are a number of models out there for public broadcasters, all of which protect journalistic sources. Some are very descript. The Irish model, for example, that was presented by the Information Commission is very precise and descript. The BBC model is a little bit less so. They go further than our section 68.1 does and require significantly more disclosure. I think that's something we need to do.

I've received a lot of correspondence, as you can imagine, on this file. One of the things I received was a four-page e-mail from someone who asked not to be identified but who is in the employ of CBC. In there, they discuss their passion for the broadcaster, their love of it, their frustrations, and what they see as opportunities to improve the operations. One of the things they recommend is a third-party independent review of the CBC, whereby the third-party could go in and make specific recommendations that could improve your transparency, your efficiency, and your overall operations.

Would the CBC be supportive of such a look into its operations and a review of its transparency by a third party to make recommendations on how it could improve its practices?

• (1035)

Mr. Hubert T. Lacroix: Monsieur Del Mastro, Madam Chair, we are accountable in a whole bunch of ways. I'm not going to go through my remarks again. I think you know how many people look at us, and how transparent we are.

Right now the Auditor General is doing one of his special exams. This is going to be a thorough review of what's going on at CBC/Radio-Canada and a report will be filed, in the same way as the 2005 report, which was the last time that the Auditor General came.

I think there are so many ways for us to show we're accountable that another step, another review, is not necessary.

The Chair: Ms. Smith.

Mrs. Joy Smith: Mr. Lacroix, thank you for coming today.

I'm new on the committee. I have been sitting in and keeping very close track of this particular case. From your answer just now, you've virtually said no, you're not wanting to have a third party come in.

Judge Boivin's ruling stated that the Information Commissioner, not the CBC, should have decided whether or not a request is captured by section 68.1, and you said you wanted the court to decide this. I'm not clear, from the questioning that we heard earlier, whether there will be an appeal to what has happened in the court today. We didn't get that clarification from you. What we heard was we'll take a look at it and we'll see.

The fact of the matter is that the CBC gets a whole wad of money from taxpayers. We're in an economic downturn and I think taxpayers out there want to know if you're going to be spending more taxpayers' money on an appeal. Could you please answer that?

Mr. Hubert T. Lacroix: Madame, first off, the answer was no to a third party, because we already have a whole bunch of third parties that look at us on a constant basis. Another layer of accountability on top of everything we do I think is unnecessary, and that would be a waste of taxpayers' money. It would be a waste of our time—time is money—and a waste of our resources. I think that's the answer.

That is why I told you that whoever wrote that note to Mr. Del Mastro, that's not a good idea.

Let's go back to the appeal. The judgment was rendered yesterday. I told you that I just spent two days on a board in Montreal. We released our second quarterly report, and we are going to look at this. I told you that our most important consideration and one of the most important considerations the Federal Court of Appeal looked at was

our journalistic material and services. That, I understand from reading it, is protected.

We're going to look at this. We are going to make a decision in the next couple of days. In the same way, Madam Chair—and this is where I was cut off the last time—the Prime Minister, two ministries, and the RCMP went all the way up to the Supreme Court, and the bottom line was that nobody actually thought these four parties were wasting resources. They thought they had a legitimate interpretation issue with the commissioner. And do you know what? The Prime Minister, the two ministries, and the RCMP won.

It was not a waste of resources. They took their rights, interpreted them in the best way, and went up to the Supreme Court. We're not saying, Madam Chairman, that we're going there. I'm simply saying give us more than 24 hours to look at this judgment and we'll make a decision.

The Chair: Thank you, Mr. Lacroix.

Thank you, Ms. Smith.

We've now been through three rounds of questioning, and given that we've got mere minutes left I'm going to suggest that we don't proceed any further. But before the committee bolts on me, I have a piece of business.

Monsieur Lacroix, you can see that there's a great deal of interest from the committee on what your decision will be about whether or not the CBC decides to appeal the decision. I wondered if there would be a possibility of you informing us once the CBC has made the decision.

• (1040)

Mr. Hubert T. Lacroix: Sure.

The Chair: Either by a letter or a public statement.

Mr. Hubert T. Lacroix: I'll be happy to write to you, Madam Chairman.

The Chair: Thank you very much, Monsieur Lacroix and Ms. Bertrand. Thank you for coming before the committee today.

I appreciate all committee members' participation today.

Before the committee bolts, I want to reconfirm the decision that we made as a result of Mr. Del Mastro's point of order—that we will be returning those sealed documents to the CBC and I have everybody's agreement to do that.

Some hon. members: Agreed.

The Chair: Great. Thank you very much. It will be noted in the minutes.

The meeting is adjourned.

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