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• (1105)

[*Translation*]

The Chair (Hon. Hedy Fry (Vancouver Centre, Lib.)): Good morning, everyone.

I call this meeting to order.

Welcome to meeting No. 24 of the House of Commons Standing Committee on Canadian Heritage.

I would like to acknowledge that this meeting is taking place on the unceded traditional territory of the Algonquin Anishinabe people.

[*English*]

Pursuant to the order of reference of Tuesday, May 12, 2022, the committee is meeting to study Bill C-11, an act to amend the Broadcasting Act and to make related and consequential amendments to other acts.

Today's meeting is taking place in a hybrid format pursuant to the House of Commons agreement from November 25, 2021. Members are attending in person in the room and remotely using the Zoom application. As per the directive of the Board of Internal Economy of March 10, 2022, all those attending the meeting in person must wear a mask, except for members who are at their place during proceedings.

I'd like to make a few comments for the benefit of witnesses and members. Please wait until I recognize you by name before speaking. For those participating by video conference, you can click on the mike. I'm sure you all know how to do this already, but I'll just go over it quickly. You can click on the microphone icon to activate your mike, and please mute yourself when you're not speaking. For interpretation for those on Zoom, at the bottom of your screen you will see a little globe, and that is what you press if you want to have interpretation. Those on the floor actually have the interpretation there. I remind everyone that all comments should be addressed through the chair.

I want to welcome the witnesses who are here today.

You have five minutes for each organization, not each person, so you can decide amongst yourselves who is going to use up what time. I will say, "30 seconds" when it is time to wrap up.

With us today we have the Canadian Union of Public Employees. Representing them are Nathalie Blais, research representative, and Tulsa Valin-Landry, VP of communications sector. Also with us is the independent broadcasters group with Joel Fortune, legal coun-

sel, and Luc Perreault, strategic adviser. From the Forum for Research and Policy in Communications, we have Monica Auer, executive director. Also, from Music Canada, we have Patrick Rogers, CEO.

Without further ado, I will begin with the Canadian Union of Public Employees. I don't know who will speak, but I am just turning on my little five-minute timer for you.

Thank you. You may begin.

[*Translation*]

Mr. Tulsa Valin-Landry (Vice-President, Communications Sector, Canadian Union of Public Employees): Madam Chair and committee members, thank you for inviting us to discuss Bill C-11 with you.

My name is Tulsa Valin-Landry, and I am the vice-president of CUPE-Quebec's Communications Sector, which represents close to 6,700 broadcasting workers in Quebec. With me today is my colleague Nathalie Blais, who is the representative for CUPE's research service.

The members we represent work in all types of broadcasting companies, whether in distribution, radio, local specialty or community television, or on the Internet. They actively participate in our democratic life by producing local, regional, national and international news, and contribute to the production of entertainment programs, just like independent producers. This is a particular feature of Quebec that we would like to draw your attention to.

Bill C-11 is very important to us. Since 2014, we have made multiple interventions, either alone or in a coalition, calling on the government to establish legislative and regulatory fairness between traditional broadcasting undertakings and online businesses operating in Canada, like Netflix or Spotify. The impact these foreign companies have had on our industry has been staggering. In just a few short years, television stations considered cultural flagships have gone into deficit, putting jobs, information and Canadian programming at risk.

The purpose of Bill C-11 is to improve the competitive position of our broadcasters so that they can continue to produce and present programs that are relevant to us, while providing the high-quality, well-paying jobs that the Canadian economy needs. By integrating web giants into the Canadian broadcasting system and regulating them, the bill will put Canadian companies on an equal footing with their foreign competitors. It will also protect our cultural and economic sovereignty.

We need new legislation quickly to allow broadcasters to regain their profitability and to protect jobs. However, in its current form, Bill C-11 contains too many uncertainties. Amendments are essential to strengthen this bill so that future provisions proposed in the Online Streaming Act are not challenged in court as soon as they are implemented. This would have a negative impact on workers, on Canadian broadcasting companies and on the cultural sector. We therefore propose some fundamental amendments to clarify the scope of the bill and ensure the success of the resulting regulations.

First of all, let's be clear that the purpose of Bill C-11 is not to regulate the entire Internet, as some witnesses have said. This is not true. In fact, the bill applies to online businesses operating in whole or in part in Canada, under subsection 4(2) of the Broadcasting Act, which remains unchanged by Bill C-11. The feedback we have heard so far suggests that the intent of Parliament needs to be more clearly expressed in the bill to avoid any ambiguity.

I'll pass things over to my colleague Nathalie Blais.

• (1110)

Ms. Nathalie Blais (Research Representative, Canadian Union of Public Employees): With respect to the proposed wording to replace paragraph 3(1)(a) of the Broadcasting Act, CUPE-Quebec suggests an amendment to clarify what the Canadian broadcasting system is in the context of an open market on the Internet and, ultimately, to avoid the sale of Canadian broadcasting undertakings to foreign interests. The current proposed wording creates uncertainty by distinguishing between the Canadian broadcasting system and foreign broadcasting undertakings. We propose a description based on operation in Canada to make clear the legislative intent.

In addition, the CRTC's mandate and accountability should be strengthened with respect to the flagship objectives of Canadian broadcasting policy. In section 3(1) of the Broadcasting Act, these objectives are distinguished from the others by their use of the present tense, which places their achievement at the forefront of the CRTC's responsibilities. These objectives include Canadian ownership and control of broadcasting undertakings, Canadian programming, employment in the Canadian broadcasting system, and the provision of broadcasting services in English and French to all Canadians.

With respect to section 5 of the Broadcasting Act, we propose the production of an annual report to strengthen the commission's oversight and accountability for its primary objectives.

Finally, we suggest an expansion of the CRTC's regulatory authority over the funding of local news and community television; a strengthening of the Canadian broadcasting policy with respect to employment in Canada; a change to the definition of the community element; and a provision allowing the CRTC to review the rates of online undertakings distributing programming, in order to establish regulatory symmetry with traditional distribution undertakings.

Thank you for your attention.

[English]

The Chair: Thank you very much, Ms. Blais. That's right on the nose.

The next group will be the independent broadcasters group.

Monsieur Perreault will begin first. You have five minutes.

[Translation]

Mr. Luc Perreault (Strategic Advisor, Independent Broadcasters Group): Good morning, Madam Chair and members of the committee.

My name is Luc Perreault and I am a strategic advisor for the Stingray Group, which is a member of the Independent Broadcasters Group, more commonly known as the IBG. With me is Joel Fortune, who is legal counsel for the IBG.

Our association consists of 13 independent broadcasting companies that are not affiliated with any of the major Canadian cable or satellite distributors.

The members of our association are television and radio broadcasters working in all areas of digital media. We offer Canadians a wide variety of content: local news, weather information and emergency alerts, documentaries, lifestyle magazines and programs, Canadian and world-class cinema, music, drama and sports. We do this in French, English, indigenous languages and 25 third languages spoken in Canada today.

• (1115)

[English]

We support Bill C-11. Canada needs to update the Broadcasting Act to better reflect the Internet and the ever-increasing presence of online broadcasting services in Canada. Our primary concern is that Bill C-11 restricts the CRTC's authority to supervise a critical element of online activity: the oversight of the distribution, discoverability and fair treatment of Canadian apps and services online.

Let me be clear. We are not talking about access to social media services. What we are talking about is access to closed platforms operated by Internet services, like Roku, Amazon and Apple TV, and by Canadian operators, like Rogers, Bell and Quebecor. These large companies use the Internet to distribute third party programming services in the same way and compete directly with cable and satellite.

In the United Kingdom, the government has announced that it intends to empower its regulator, Ofcom, to ensure that the U.K.'s services are offered and treated fairly by these online platforms. Ofcom will have a dispute resolution function to address issues that arise between online platforms and online services. In the United States, the Federal Communications Commission has already looked in depth into the regulatory treatment of virtual MVPDs. We call them "virtual BDUs" in our system. The FCC's review relates to whether these virtual BDUs should have carriage obligations for local television signals. This review remains open.

In other words, other major jurisdictions, including the U.S., are already seized with online distribution issues. Their expert regulatory agencies, Ofcom and the FCC, are exercising or being given the jurisdiction that IBG-GDI and others have proposed be included in Bill C-11 that are now absent.

Mr. Joel Fortune (Legal Counsel, Independent Broadcasters Group): Which authorities are we talking about?

First is the ability to set the terms of carriage, if necessary, for certain designated services. This could include, for example, APTN or TV5 Unis, or other existing 9(1)(h) services that are now made available to Canadians due to CRTC rules. Without CRTC intervention, these services would not exist today.

Second, the CRTC should have a general authority to create terms of service that relate to the distribution of online services and that go beyond individual services, such as APTN or TV5. For example, that authority could be used to ensure that local television services are offered in their own local markets by certain online services.

Third, the CRTC should have the authority to engage in dispute resolution involving online services and access to online distribution platforms. They exercise that authority today for cable and satellite distribution, and Internet distribution could well replace them in the future. The CRTC's powers should keep pace.

We have submitted our proposed amendments to the committee. They are all directed to this issue of distribution and are meant, at heart, to preserve the CRTC's authority to oversee certain business-to-business relationships that arise between programming services and distributors to preserve the competitiveness of our market, its openness to Canadian services and the advancement of broadcasting policy objectives.

The Chair: Thank you very much, Mr. Fortune. Again, that was just under the wire. Very good.

Now I'd like to go to the Forum for Research and Policy in Communications.

Ms. Auer, you have five minutes, please.

Ms. Monica Auer (Executive Director, Forum for Research and Policy in Communications): Thank you, Madam Chair.

Thank you for inviting the Forum for Research and Policy in Communications to appear today. We undertake empirical and policy research in communications and participate in a range of CRTC proceedings.

The forum strongly agrees that Canada needs a new statute to serve the public interest by ensuring the availability of and Canadians' access to high-quality Canadian news and entertainment programming and to serve our economy's need for jobs and investment, but we fear that the contradictions, gaps and loopholes that exist in Bill C-11 will thwart Parliament's objectives.

Our written submission recommends changing eight aspects of Bill C-11. As other witnesses have already addressed some of these issues, I will highlight just three points today.

First, while the current Broadcasting Act and Bill C-11 state that the best way to implement Canada's broadcasting policy is through

a single independent public authority, Bill C-11 erodes this independence by handing cabinet the power, in proposed subsection 7(7), to override the CRTC when it exercises any or all 39 of the CRTC's powers in part II.

Proposed part II.2 also lets cabinet regulate eight administrative violations. Bill C-11 also leaves intact the existing limit on CRTC decision-making independence, enabled by the chairperson's power to "decide who decides"—that is, which CRTC commissioners may actually make decisions. Rather than weakening the CRTC's decision-making independence, Bill C-11 should strengthen it.

Second, gaps in Bill C-11 will make current serious problems with the CRTC's transparency, accountability and timing even worse. The section 5 regulatory policy now ignores the public interest and discourages the CRTC from regulating if doing so may be a "burden". It is next to impossible for the public to refute claims about future burdens or to make the case for stronger regulation to implement the broadcasting policy. Despite collecting programming data from Canadian radio and TV programming services for half a century, the CRTC has not published such data in decades.

Bill C-11 should require the CRTC to report annually on section 3's implementation to enable oversight by Parliament and Canadians alike, and should set a more rational test for undue regulatory burdens. Bill C-11 does propose that the CRTC publish relevant evidence before consultations affecting minority-language communities, but it should do so before all consultations, and CRTC determinations should be signed by those who make them.

As for timeliness, divining when the CRTC will decide matters is now based on guesses or gossip. Bill C-11 ignores this problem and makes it worse, since those accused of administrative violations may wait forever to be formally cleared of wrongdoing. The bill should require the CRTC to complete its investigations within a reasonable period. In brief, this bill is a rare opportunity to reduce problems with the CRTC's transparency, accountability and timeliness.

Finally, drafting loopholes may, in any event, stymie Bill C-11's implementation. In particular, proposed paragraph 2(2.3)(a) excludes online programs that are "ancillary" to a business's primary activities. This may simply encourage creative business structuring and court challenges, and is at odds with the existing requirement in section 9 that the CRTC exempt broadcasters unable to contribute materially to the broadcasting policy. Requiring off-line but not on-line distributors to negotiate reasonable terms of carriage with programming services will simply hurt, if not kill off, Canada's small and medium-sized domestic programming services, fuelling, in the interim, calls for "me too" deregulation. If Bill C-11 wants the single system envisaged in subsection 3(2), it should clearly define its reach and treat "like" media alike.

To conclude, our fear is that, if left as written, Bill C-11 will simply not achieve Parliament's stated objectives, and that, even worse, court challenges of its implementation by the CRTC will create long delays and cost Canada and those working in its creative sector quite dearly.

Fixing Bill C-11's drafting problems will strengthen Canada's communications system by ensuring that it is an independent regulatory authority actually serving the public interest by making evidence-based decisions in a fair and timely manner.

We strongly support the general purpose of Bill C-11, but thoughtful revision now gives you the opportunity to craft outstanding 21st-century legislation. We are confident that this is your committee's intent.

Thank you.

• (1120)

The Chair: Thank you very much.

Now I will go to Music Canada and Patrick Rogers.

Mr. Patrick Rogers (Chief Executive Officer, Music Canada): Good morning.

It's a pleasure to be here with the committee to discuss Bill C-11. Music Canada is the trade association for Canada's major labels: Sony Music Entertainment Canada, Universal Music Canada and Warner Music Canada. Canada's major labels sign and partner with Canadian artists, helping them achieve commercial success in Canada and export that music abroad. Overwhelmingly, it is artists partnered with major labels that Canadians listen to on the radio, stream or hear synched to their favourite TV shows. I'm in the enviable position of telling the committee we support Bill C-11's core principles of accessibility of Canadian content through regulating broadcasting on the Internet.

Canada's commercial radio rules, developed five decades ago, were integral to today's successful Canadian music industry, with Canada's major labels leading the way. Those rules opened new opportunities for careers and professional development for artists, labels, studios, managers, venues and an entire emerging Canadian music industry. That commercial success in turn enabled businesses to reinvest in the next generation of talent. In fact, I like to think that our members have served as an example for this bill.

Proposed paragraph 3(1)(f.1) requires making the "greatest practicable use of Canadian creative and other human resources". That

is the business model of Canada's major labels. We have offices in Toronto and Montreal full of Canadians, making Canadian music for the Canadian market and the world. In a global digital marketplace, success in Canada is a stepping stone to international success.

Music is one of the most recognizable and successful exports. Canada is the eighth-largest streaming market in the world. Out of the top 10 most streamed artists in the world, three of them are Canadian. Those names you all know—Bieber, The Weeknd and Drake—but I want to tell you about some of today's biggest Canadian success stories that perhaps you haven't heard about.

Ali Gatie, raised in Mississauga, is an artist of Iraqi descent who surpassed 3.5 billion streams for his 2019 single, *It's You*. Tate McRae, a singer-songwriter from Calgary, one of the world's artists to watch, held down the number one spot for five weeks on Billboard's emerging artists chart, with over 3.2 billion career streams. Eli Rose, a Montrealer, named Breakthrough Artist of the Year at the 2020 ADISQ awards, with numerous hits, has 14 million global streams and counting. These are just a few of the names of the next generation of Canadian talent, and they're finding success in streaming that maybe they wouldn't have found in radio alone. These successes come from both the incredible talent of these artists and from the investments made by our members, publishers, indies and the platforms that license the music.

Turning to the bill, we support the bill as the minister describes it. We agree when he says the CRTC should not regulate the algorithms of online services or user-generated content. We hope the committee will clarify the bill text to clearly reflect the minister's intent. The committee has now heard about the CRTC's potential to reach into algorithms and to regulate user-generated content. That wiggle room in the bill, compared to the minister's certainties, was at first confusing, but following the outgoing chair of the CRTC's testimony here, that wiggle room is concerning. This can be fixed by honing the language of the bill to reflect the minister's stated intent. The bill can be amended to clarify the prohibition on the CRTC regulating algorithms, and the language regarding professional content can be sharpened to reflect the minister's statement of no cat videos.

The global music industry has just come back from nearly two decades of decline. The growth reflects the hard work of companies like ours to ensure that music uses are licensed and artists are paid when their music is played. We know what happens when Canadians feel there's too much friction between them and what they want to hear: They will find their music elsewhere. If regulation proves too burdensome on our industry partners, we know that consumers will move to unregulated spaces, which, by definition, will be harder to license, which will mean a devaluation of music, making it harder for artists to be paid when their music is played. That flies in the face of the good intentions of this bill.

To that end, I ask the committee to listen carefully to the platforms that will be regulated. They are our business partners, and they are where our artists and labels increasingly make a living in the 21st century. Ultimately, they are the people who bring your favourite artists to your phone, your car and your living room.

In conclusion, this is an important bill, with real-world goals.

I look forward to answering any questions you may have.

• (1125)

The Chair: Thank you very much.

I'll now go to the Walt Disney Company and Mr. Fares, for five minutes.

Mr. David Fares (Vice President, Global Public Policy, The Walt Disney Company): Thank you, Madam Chair and members of the committee, for inviting me here today. I appreciate the opportunity to discuss the important relationship between Canada and the Walt Disney Company, as well as Bill C-11.

Canada is one of Disney's top four production markets. In the last three years, our content spend in Canada, across all of our production companies, was approximately \$3 billion on content to be featured on multiple platforms for worldwide distribution.

We produced six of our most recent feature films in Canada. In 2021, we produced 18 TV and VOD original series in Canada, with Disney+ Originals offering a source of growth for productions in Canada. Indeed, when Disney+ launched, three of the six originals on the platform were produced in Canada.

We have also produced in Canada uniquely Canadian stories. *Barkskins*, produced by National Geographic, tells a unique Quebec story, following two French families over a 300-year period, beginning with their arrival in New France. The *Barkskins* production team worked closely with the Wendat nation to ensure historical accuracy and respect.

Turning Red, a Pixar animation film released on Disney+ on March 11, is a love story to growing up in Canada, created and directed by Canadian award-winner, Domee Shi.

We are also producing a series based on the award-winning Canadian novel, *Washington Black*.

It is important to note that *Barkskins*, *Turning Red* and *Washington Black* do not qualify as Canadian programs under the CRTC's current definition, notwithstanding their unique Canadian stories.

Our close relationship with Canada is not limited to productions but includes a permanent physical footprint with state-of-the-art and innovative facilities staffed by high-skilled talent. Two of Disney's production companies have a physical presence in Canada and are expanding to fuel growth in the audiovisual sector, including infrastructure and skills development. Industrial Light & Magic, a visual effects subsidiary of Lucasfilm, has one of its five global offices in Vancouver, employing 500 people at any given time. ILM is expanding its footprint in Vancouver, building a 20,000-square-foot virtual production stage. The Stagecraft LED system will ensure that Vancouver continues to be one of the most innovative visual effects hubs in the world.

In August 2021, Walt Disney Animation Studios announced that it will open its first production facility outside of Burbank, California, in Vancouver, hiring 400 high-skilled employees over the next two years.

Disney also works with independent Canadian production companies, helping them grow and establish themselves as leaders in their fields. Two important examples are Mercury Filmworks in Ottawa, an animation studio with which Disney has worked on at least 10 productions, and Omnifilm Entertainment, based in Vancouver, which is a live action production company with which we have worked on at least five productions.

Madam Chair and committee members, I understand that a main motivating driver behind Bill C-11 is that, if you benefit from Canada, you should contribute to Canada. I hope that in the last few minutes, I have successfully demonstrated Disney's proud contributions to Canada and its creative ecosystem. We hope to invest further in Canada, and a flexible regulatory regime will allow us to maximize those future investments.

From our perspective, a flexible regulatory regime would recognize that each company offers a different proposition to its consumers. Accordingly, consumer expectations flow from a company's particular offering. Disney+ is unique in that it predominantly offers content from Disney's own brands: Disney, Pixar, Marvel, Star Wars, National Geographic and Star. Given this unique offering, we hope that Bill C-11 will allow each company to contribute to the health of the Canadian AV ecosystem in a manner consistent with the service it offers, thereby fuelling consumer choice, benefit and diversity.

As I noted, Disney is proud of our contributions to Canada, but they differ from those of Canadian broadcasters by the very nature of the content we offer. For example, Canadian broadcasters devote a significant portion of their content spend on news and sports, which is content that Disney does not produce in Canada. We would welcome the opportunity to work with you to ensure that Bill C-11 recognizes and embraces such differences.

The Motion Picture Association of Canada will be filing proposed amendments to the committee in writing, and the Walt Disney Company fully subscribes to these amendments.

Thank you, Madam Chair and committee members. I look forward to answering any questions that you may have.

• (1130)

The Chair: Thank you very much, Mr. Fares.

Now that ends our witness period. We're going to move to the question-and-answer period. This is going to begin with a round of six minutes. Just so witnesses know, that six minutes includes the question and the answer.

I shall begin, for six minutes, with the Conservative Party and John Nater.

John, you have six minutes. Go ahead, please.

Mr. John Nater (Perth—Wellington, CPC): Thank you, Madam Chair.

Again, thanks to our witnesses for their testimony this morning. It's been an interesting morning thus far. I'm looking forward to the questions and comments as well.

I want to start with Mr. Fares from the Disney corporation.

You mentioned three very specific examples of productions that told Canadian stories and were developed with Canadian content but aren't considered Canadian under the CRTC's Canadian content principles. Could you expand on that a little bit and talk about how that works as a detriment to your organization—or perhaps “challenge” might be a better word—when you're producing what many of us would consider Canadian content that isn't considered Canadian content under the CRTC rules? Could you give us some thoughts on that?

• (1135)

Mr. David Fares: Thank you for the question, MP Nater.

I would begin by saying that every program that is produced in Canada contributes to the overall health of the Canadian AV ecosystem by training skilled workers and developing infrastructure. We also sometimes tell stories, as I mentioned, whether it's *Barkskins*, *Turning Red* or *Washington Black*, that are truly Canadian, but because the Walt Disney Company owns the intellectual property, even if with the significant talent you could meet the points system under the definition of Canadian content today, it could not qualify as Canadian content.

Ironically, on the other hand, there may be content produced in the United States that does not tell a Canadian story, but that, nonetheless, because it meets the points system with the particular high-level creative talent working on the program, would constitute

Canadian content because it is perhaps owned by a company that has majority ownership by Canadians.

What we're calling for is a flexible system around Canadian content that allows each one of us to contribute to the AV ecosystem in a manner consistent with the service we offer. As I mentioned in my opening statement, Disney+ is unique in the video streaming space in that we largely and predominantly distribute our own proprietary content across the six brands that we own. Therefore, that means it's IP that we own. Given the nature of our business, there needs to be flexibility introduced into the definition of Canadian content, both to deal with the irony that I outlined but also to allow companies like the Walt Disney Company to maximize how we contribute to the Canadian AV ecosystem.

I think there can be a very simple fix in this. That is, there are several criteria set out in the draft legislation: IP ownership, creative talent that participates and creative story. No single one of them should determine what constitutes Canadian content. Flexibility can be incorporated into the definition.

Mr. John Nater: Thank you very much for that. I appreciate that commentary.

I'm going to move to Mr. Rogers with Music Canada.

You mentioned a little bit about the wiggle room, which was first questionable and is now concerning, and the need for clarity within the piece of legislation to confirm that algorithms wouldn't be affected and that user-generated content would be excluded.

Do you have specific suggestions with respect to the legislation itself in terms of what parts of the legislation ought to be changed? Whether it's proposed section 4.2 or whether it's other parts of legislation, what would you suggest that the committee ought to be considering when we're doing the amendments during clause-by-clause?

Mr. Patrick Rogers: Madam Chair, I thank the member for the question.

We divide this into two pieces, but the heart of it is, frankly, that we think the minister's right. When the minister says, no algorithms and no to cat videos, we think the language in the bill should reflect that.

On algorithms, I would say that proposed subsection 9.1(8) can be amended to make it less about that particular section and more about the act, therefore prohibiting requirements regarding algorithms in anything from the act. We can provide that language as a follow-up. With regard to user-generated content, I would say that the individual platforms are probably the best to get hard language on, but I would tell you that we support that.

I would just go back again to my opening statement about this. This has gone from being a hypothetical with nervous lawyers in the back of the room concerned that the language isn't clear enough to, following the CRTC chair's explanation that there is wiggle room, now something we think the committee should address to, again, reflect what the minister said.

• (1140)

Mr. John Nater: Thank you. I appreciate that.

I'm going to turn for my last bit of time to Ms. Monica Auer, from the Forum for Research and Policy in Communications.

You made a comment about timelines and the timeliness of the CRTC—I think you said based on rumours, guesses and gossip. I'm not sure I have that written down exactly.

If the CRTC is going to be given this additional responsibility through Bill C-11—and down the road through Bill C-18 as well—how do you see that affecting the timeliness and the responsiveness of the CRTC going forward, given this new scope of responsibilities that they'll receive through this piece of legislation?

The Chair: You have 40 seconds, Ms. Auer.

Ms. Monica Auer: I think it's likely that you'll see continuing delays. The CRTC has had its resources increased over the last 10 years. That's true. On the other hand, delays have simply increased in the last 10 years in terms of licensing decisions. You're probably familiar with the CBC coming up on now nearly 10 years of a licence, thanks to the CRTC's administrative extensions.

The Chair: Thank you very much.

You have 14 seconds left, John. I don't know that you can do anything with that.

Mr. John Nater: Madam Chair, you underestimate me.

The Chair: I walked into that, John. I think we've used up those 14 seconds.

Now I'm going to go to the Liberals and Ms. Lisa Hepfner, for six minutes, please.

Ms. Lisa Hepfner (Hamilton Mountain, Lib.): Thank you very much, Madam Chair.

Thank you to the witnesses for your testimony today.

I would like to start with either Mr. Fortune or Mr. Perreault, from the independent broadcasters group.

I know that you represent small broadcasters, and in your opening remarks you touched on the environment for small broadcasters being up against international platforms. How important is it for this legislation to pass in terms of the broadcast environment out there right now?

Mr. Joel Fortune: I can maybe start with that and then let Luc pick it up.

It is a challenging environment right now. Obviously, change is upon us, and I think a lot of the challenges faced by independent broadcasters stem from the structure of the Canadian industry itself, not just the international environment.

As you know, Canada has a consolidated and vertically integrated communications environment, and the regulatory environment has been changed over the last decade or so. It said it favours competition, and that's fair, but what has been the outcome of that competition? At IBG, we've conducted studies that have shown that by and large, in our environment, the smaller independent players tend to do less well than the larger vertically integrated players. It naturally follows: If you own the means of distribution, there are more opportunities to provide advantages to your own services.

That's the domestic environment in which we operate, and that has a big impact on how we're faring. We're concerned about some of those disadvantages in our domestic environment now being compounded by similar phenomena in the global online environment, where we're also dealing with players who own the means of distribution. They own platforms. They have some of their own content services. We're quite worried about replicating that environment and then bringing it into Canada without sufficient support for independent services.

Ms. Lisa Hepfner: I know it may be straightforward and simple, but could you describe for us why it's important to support local independent broadcasters as well as the big guys?

Mr. Joel Fortune: Luc, do you want to go with that?

Mr. Luc Perreault: To be honest with you, we're looking at this in a more global perspective, because streaming services are offered in over 110 countries and we have over 130 million subscribers.

Negotiations are going well, but to a certain extent, some platforms are now moving toward exclusive categories. For example, one platform will do a deal with a large music provider, and this will become the only music provider on that platform. All other music services, like Stingray, for example, would be excluded. That means we're going to make less money, but also that all of the content we offer—and a lot of Canadian content—won't be available, neither here nor on the international scene.

That's why Ofcom in the U.K. said they were going to stop this and make sure that in the U.K., even if some exclusives deals are made, for categories or genres, British content will be made available.

• (1145)

Ms. Lisa Hepfner: Could you expand a bit on that point.... I lost my train of thought there.

Okay. Let me move on to CUPE.

[Translation]

The Broadcasting Act dates from 1991. Can you tell us how this act has protected arts and culture in Canada? Has the Broadcasting Act played an important role in Canada?

Ms. Nathalie Blais: Thank you for the question.

In fact, this act was fundamental. If it hadn't been for the current Broadcasting Act and the CRTC regulations, there probably wouldn't be any local news on regional television stations.

When I first became involved with my union in the mid-2000s, local stations had Canadian programming obligations that were down to three hours and ten minutes a week. As you can imagine, that's very little Canadian content per day. Through efforts and interventions before the CRTC during licence renewals, we succeeded in having the minimum requirements of Canadian programming increased to five hours. It was still a struggle. I would not say that the act is perfect in this regard.

That is why we are asking that the provisions of the Canadian broadcasting policy be strengthened with respect to employment in Canada and the funding of local information and community television. Currently, the CRTC has no real regulatory power to create production funds. It does so on an individual basis or when it initiates large processes that concern, for example, all cable companies. I think that's when the first version of the Canada Media Fund was created, around 1993. The ideal would really be to have provisions in the Broadcasting Act, through the proposed new subsection 11.1(1), that would allow the CRTC to allocate funding to local news or community television.

[English]

The Chair: Thank you, Madame Blais.

I will now go to the Bloc Québécois and Monsieur Martin Champoux for six minutes.

[Translation]

Mr. Martin Champoux (Drummond, BQ): Thank you, Madam Chair.

I would like to thank the witnesses very much for being with us today. Once again, their testimony is very enlightening and their opinion is very useful to us.

I'll start with Ms. Blais.

I'd like to talk about paragraph 3(1)(a) of the Broadcasting Act. Bill C-11 already proposes an amendment to this paragraph, which deals with Canadian ownership. The proposed version is as follows:

(a) the Canadian broadcasting system shall, with the exception of foreign broadcasting undertakings providing programming to Canadians, be effectively owned and controlled by Canadians;

In your proposed amendment, you suggest deleting the exception mentioned in the bill, in order to include all broadcasting undertakings operating in whole or in part in Canada.

Ms. Blais, could you tell me what your intention is in suggesting this amendment to proposed paragraph 3(1)(a)?

Ms. Nathalie Blais: First of all, the reason we suggest deleting the end of the wording proposed in Bill C-11 is that we believe it

introduces uncertainty as to the limits of the Canadian broadcasting system. A court could be led to believe that foreign broadcasting undertakings are not part of the Canadian system. We also believe that the reverse could be true. There is uncertainty in this regard, and it could in some ways make the issue worse. Indeed, if the provision were to be amended, the question could arise as to how Canadian ownership and control should be interpreted. This issue has already been decided by the Court of Appeal in 1998. At that time, the Court of Appeal stated that Parliament had not limited the field to Canadian-owned and controlled broadcasting undertakings, but rather had provided that the Canadian broadcasting system must be, in effect, owned and controlled by Canadians.

In our view, amending paragraph 3(1)(a) of the Broadcasting Act to try to include foreign undertakings may be shooting ourselves in the foot, when the provision already allows for some foreign ownership.

In fact, in the report published in 2003 by the Standing Committee on Canadian Heritage, which was chaired by Mr. Clifford Lincoln at the time, the calculation was made based on the definition of control in fact and it was concluded that 46.7% of Canadian broadcasting undertakings could be foreign-owned without affecting Canadian ownership and control of the system.

There are between 600 and 700 broadcasting undertakings in Canada. We therefore believe that there is sufficient room for the addition of foreign-owned undertakings operating in whole or in part in Canada. There is no need to amend paragraph 3(1)(a) of the Broadcasting Act other than to perhaps clarify what the broadcasting system is, now that our system is no longer closed.

I don't know if my colleague would like to comment on that.

● (1150)

Mr. Martin Champoux: I would rather we now talked about another provision, Ms. Blais, since my time is rather limited.

I wanted to hear what you had to say about proposed paragraph 3(1)(f). In my opinion, this is an extremely important provision. The amendment you're suggesting is also very important because of the nuance it tries to address or remove.

I don't know if you're familiar enough with this provision to tell me about it, but proposed paragraph 3(1)(f) talks about maximizing the use of Canadian human and creative resources. However, the end of the wording proposed in Bill C-11, if I'm not mistaken, allows for some flexibility in the case of foreign undertakings.

Can you explain to me why you want to delete that part of the proposed wording?

Ms. Nathalie Blais: It is because it introduces exceptions. Basically, we are telling the CRTC that Canadian resources must be used predominantly and maximally. So there is already a great deal of flexibility. For it to be predominantly Canadian, it would have to be 51%, for example, whereas the maximum is 100%. In other words, we mention to the CRTC that between 51% and 100% of workers in broadcasting undertakings must be Canadian, unless the language or format does not lend itself to it, and so on.

As a result, employment issues are never really well considered by the CRTC. I mentioned local news earlier. In addition, according to the CRTC reports, there are many undertakings that simply do not have Canadian workers. There is also minimal monitoring of jobs. How many jobs are there? In what fields do these people work? What do they do? Do they really work in broadcasting? All of this could be improved if the CRTC had a stronger responsibility.

In short, if paragraph 3(1)(f) no longer contained this conditional element, having a majority of Canadian workers would really become a key objective.

Mr. Martin Champoux: That would also make it a slightly stronger provision.

Ms. Nathalie Blais: That's right.

Mr. Martin Champoux: Thank you, Ms. Blais.

Mr. Perreault, in your opening remarks earlier, you spoke in particular about services related to paragraph 9(1)(h) of the Broadcasting Act. In this regard, we think a lot about APTN. I think that's the example we use most often, because it's pretty clear to everyone.

What will happen if your proposed amendments to paragraph 9(1)(h) are not adopted? What consequences can we expect if these amendments are not adopted?

Mr. Luc Perreault: I'll draw a parallel with what the Federal Communications Commission is trying to do in the United States.

As the big digital companies take over more ratings, local stations in the United States are saying that they have to reach out to citizens and present local news on these big platforms. Because it's IP technology, you can very easily put local news on a platform like Netflix or Amazon, because it's manageable.

So when you hear local television stations in the United States say that to the Federal Communications Commission—

[English]

The Chair: Monsieur Perreault, can you please wind up that sentence, because we're out of time.

[Translation]

Mr. Luc Perreault: In Canada, we have decided as a country to equip ourselves with services like APTN and TV5. So these services should also be made available.

• (1155)

Mr. Martin Champoux: Thank you very much.

[English]

The Chair: Thank you, Martin.

We'll now go to the New Democratic Party and Mr. Peter Julian for six minutes please.

[Translation]

Mr. Peter Julian (New Westminster—Burnaby, NDP): Thank you very much, Madam Chair.

Thank you to the witnesses for being here today.

Your testimony shows that while there are improvements to be made, the overall intent of the bill is important. For our committee, that's a really important aspect to consider: we can propose amendments to improve the bill, but the bill, in principle, is going to do some good things.

I will first turn to Mr. Valin-Landry and Ms. Blais. I'd like to address some questions about Canadian jobs and paragraph 3(1)(f) of the Broadcasting Act.

Of course, some people are proposing that paragraph 3(1)(f) be strengthened so as to add a real obligation to Canadian jobs.

Can you explain the importance of this issue? In fact, if no amendments are made to this paragraph, what will be the result?

Ms. Nathalie Blais: Actually, I think it's important to reduce the uncertainty in paragraph 3(1)(f). This paragraph has been in place for years, since 1991. Earlier, I mentioned that around 2003 or 2004, local television stations were down to three hours and ten minutes of local programming per week, whereas they used to have 22 hours in the 1990s. This is proof that this paragraph has not given the CRTC enough impetus to ensure that both Canadian programming and Canadian jobs are maintained.

Mr. Peter Julian: Thank you very much.

So not looking at that could be a problem for Canadian jobs.

Ms. Nathalie Blais: Yes. I think that could effectively maintain the CRTC's inertia with regard to jobs.

Mr. Peter Julian: Okay, thank you.

I'll now turn to the Independent Broadcasters Group, Mr. Perreault and Mr. Fortune.

You talked about a level playing field. In the context of this bill, how important is it to have a more level playing field, when there are discussions between independent broadcasters and the major communications companies in Canada?

[English]

Mr. Joel Fortune: Let me try to start, Mr. Julian.

There's a gap now in the bill. That's the main thing. That's our key point—there's a gap. Right now the Broadcasting Act clearly covers the activities of cable and satellite companies. They're called distribution undertakings. It's clearly covered in the act. There's a regulatory regime and ultimately the CRTC has clear jurisdiction to ensure that all players are treated fairly and that everybody makes an appropriate contribution to Canadian broadcasting.

Bill C-11 goes a little bit along that path, but it doesn't create a similar environment for online distributors. These are the platforms like Roku and others that make available programming services with third parties on their platforms. Increasingly, our own Canadian cable and satellite companies are going to take this route. They're going to take their services online. They're going to use the Internet to deliver third party programming services.

Our concern is that the commission will not have the same type of authority in that environment that it has now in the cable and satellite environment. Ultimately, I think we're going to look at a substantial weakening of how Canadian programming services are delivered to Canadians in our own market. I think you heard from Mr. Danks last week that access by Canadian services to the domestic market is really a precondition for global access on these platforms. We need to use our own market to our own advantage, and to that end we need sufficient authority to make sure Canadian services are present and treated fairly.

● (1200)

Mr. Peter Julian: Thank you very much for that.

I will go on to Ms. Auer.

You raised the issue of the CRTC responding in a reasonable way. That is obviously a concern. I wanted you to respond a little bit more in depth in terms of where you see the problems with the CRTC responding in such an important area of jurisdiction. The fact that they are not responding within a reasonable period now is a matter of concern, there is no doubt.

How do you see the CRTC responding in a more timely manner? You've suggested amendments to the bill, but are there other things as well the CRTC should be doing so that they respond in a timely way to the important issues that are before them?

The Chair: You have 22 seconds, Ms. Auer.

Ms. Monica Auer: I'll try to be brief.

I think it would be critical, first of all, for the commission to report annually on how it is actually implementing subsection 3(1), and also section 5. If we don't know how it is doing its job, we're unable to put pressure on the commission to actually change what it's doing.

In terms of timing, the commission currently publishes next to no useful information about the timing of its work or how it is actually achieving work. In some ways one could argue that the information it provides Parliament now misleads people about what it is actually managing to achieve. We provided detailed recommendations in our submissions.

The Chair: Thank you. There's such a short time for everyone to get into the nitty-gritty of what they really want to say, so I'm very sorry about that.

It is now noon, colleagues. We've finished our first round and we're going to have bells at 12:30, so I think we have room for a second round. What I'd like to do is begin the second round now, which is a five-minute round, and I begin with Mr. Waugh for the Conservative Party.

Mr. Kevin Waugh (Saskatoon—Grasswood, CPC): Thank you, Madam Chair.

I'm going to pick up with the Forum for Research and Policy in Communications.

It's been 17 months and we still haven't heard boo from the CRTC on the licensing of CBC, our national public broadcaster. Next month, in June, it will be a full year and we're still waiting for a three-digit suicide helpline. These are two examples where the CRTC isn't doing its job today.

Ms. Auer, I think you've hit it right on. With a staff of 650-plus, they are still not capable of doing what they should be capable of in the Broadcasting Act. I want you to expand on that.

I have talked excessively about the CRTC. They cannot handle today's facts, yet we're going to be piling C-11 on, plus C-18, it looks like. I'd like your thoughts, please.

Ms. Monica Auer: Thank you for the question, Mr. Waugh.

In terms of the CBC decision, it's bizarre that it's taking this long. I have no reason to explain it. I should tell you that, having worked at the commission, I admire so many of the commission staff working under difficult times, especially during the pandemic. As I understand it, leadership comes from the top. If the commission itself—the commissioners—is not requiring timeliness, I don't think we can blame the staff for that.

I'd like to also mention that my data, which I had looked at for the CRTC, showed that from 2000 to 2021, the commission staff had increased by a quarter—from 400 to more than 500. There are resources there. The commission got additional funding just to help it begin to do this and Chairperson Scott addressed the fact that he had allocated 100 people to start preparing for C-11.

However, the fact remains that when you try to find out what the commission is doing, it is difficult to find out. Why is that? Why can't we actually have ongoing, regular reports from the commission about what it is doing?

When you think about the issue of transparency—because timeliness is really, in a way, part of transparency—why don't we actually know today who is making decisions at the commission? The commission's process of making decisions changed after the 1982 charter. That's why there's a requirement in the 1991 act that they who hear decide. The problem is that it's the chair who decides who decides. That means the independence of the commission is compromised.

• (1205)

Mr. Kevin Waugh: I only have five minutes, so I want to move on, if I can, to Mr. Rogers.

Ronnie Hawkins died yesterday. Is he a Canadian or is he an American?

Voices: Oh, oh!

Mr. Patrick Rogers: I thank the member for the question.

As of right now on radio, that is determined by the CRTC. Obviously, his contribution to the music industry is important.

I think you raise an important part of what regulation of music will look like. Who will decide who is Canadian? Our members at Music Canada look forward to taking part in those discussions with the CRTC, as long as there's an understanding that starting with radio rules is not necessarily where we need to begin and that the answers are not algorithmic. They are platform by platform.

Mr. Kevin Waugh: Yes, I think you're right on.

I worry about radio. Streaming has taken over. You had the numbers there. I think if you look a few years down the road, the radio industry may not even be accessible in this country. The music industry in this country over the decades has really relied on the old radio, but it's done now. You gave some great stats on streaming and how well Canadian stars are doing streaming.

Mr. Patrick Rogers: Just so we're a hundred per cent clear, I don't think I'm here to say radio is dead. Radio's still an important part of our business, but Canada's now at two billion streams a week. We're excited by that. I think there's an amazing amount of opportunity to be found there—English and French, indie and major. This is something we can all be excited about.

The Chair: Thank you very much, Kevin. With that radio voice of yours, I think we'd want to see radio continue.

I will now go to Mr. Louis for the Liberals.

Tim, you have five minutes.

Mr. Tim Louis (Kitchener—Conestoga, Lib.): Thank you, Madam Chair.

I want to thank all of our witnesses. I appreciate their time and their being here.

I would like to continue the conversation with Mr. Rogers, but I first want a chance to talk to the independent broadcasters group, specifically Mr. Fortune.

There have been some voices claiming that the online streaming act would somehow give some sort of unprecedented control over what content we see online. Right now these companies are....

Could you comment further on the power platforms currently have as gatekeepers for access to programming and services, and how, as the system exists now, they can already exercise those preferences or even discrimination?

Mr. Joel Fortune: Thank you for the question. That's a very important point.

Again, when we're talking about online platforms, we're talking about services like Roku or others that provide access for third party programming services to reach the public and be distributed on a platform. One must reach an agreement with the provider of the platform for access to the public. These are not social media services. You don't get to put out content on your own. You have to negotiate and obtain their consent to access the public.

The best example given last week was Mr. Danks'. He explained how OUTtv, his Canadian LGBTQ programming service, which has a strong presence around the world.... It's one of the leaders in Canada providing Canadian programming around the world. He described how he's had issues gaining access to certain large online platforms for his service, precisely because it is LGBTQ content. That's the sort of control issue online platforms have. You don't get to upload your own content. You have to license it to the platform and reach an agreement. They very much control the audience that sees your content.

It is important for Canadian services to have meaningful access and be treated fairly by these platforms. That's what we're seeking.

Mr. Tim Louis: Thank you for that.

I will turn to Mr. Rogers from Music Canada, representing Sony, Universal and Warner.

Thanks again for being here. We spoke briefly about the Canadian content rules for traditional radio and how it has supported our artists over the years.

In your opinion, would the music industry be the same if we had not supported Canadian artists with the CanCon rules we had on traditional radio? Would they have had the same commercial success? Can you take a high-level approach and talk about how CanCon in radio has made a difference in protecting our cultural sovereignty?

• (1210)

Mr. Patrick Rogers: As I said in my opening statement, this is very much the bedrock of the Canadian music industry, which is led by the majors. We partner in distribution with indies and publishers. We make up the ecosystem, and those regulations have helped provide that.

The Internet is a very different place from radio, and services that are provided digitally operate in a different function. I'm not immediately convinced that what works in one place will work in the other, but at the core, when I hear the minister talk about the goals.... I think the minister has it right. The desire for accessibility, but not necessarily pushing it, is something we would strongly support.

Mr. Tim Louis: Thank you.

As a follow-up, we talked about the arts moving over to streaming and how the growth of industry has certainly benefited the platforms. You mentioned some of the international artists, but not all artists are experiencing that surge in revenues.

Would you agree that a larger fund available to Canadian artists, especially if there were extra contributions from foreign-owned streaming giants in addition to the funding that traditional Canadian companies are already contributing...? Would you agree this would definitely support our whole ecosystem, from top to bottom?

Mr. Patrick Rogers: Thank you for the question.

Obviously, government funding, or government-mandated funding, has played an important role in the music ecosystem, but I would point out that there's also great success in the industry as well.

The Internet has removed a lot of gatekeepers—those who kept artists off the radio. Those artists are now able to go to different platforms and put their music out there and connect directly with their fans. That doesn't mean you can create fans who aren't there, but you can go and find them, and you can break out. You don't have to break out locally. You can break out internationally. That's one of the wonders of the system now, and I think it's one of the things Canadians are finding great success in: connecting in pockets, and not just in Toronto, Montreal or Vancouver. They're finding success all around the world.

The Chair: Thank you very much.

The time is up, Mr. Louis.

I'm going now to Mr. Champoux for two and a half minutes.

Go ahead, Martin.

[*Translation*]

Mr. Martin Champoux: Thank you, Madam Chair.

I have a few quick questions.

First, I would like to turn to Mr. Fares, from Disney.

You talked about the productions you have recently made using Canadian talent. Who owns the rights to these productions? Is it Disney?

[*English*]

Mr. David Fares: It's largely Disney, because they are our own produced productions, yes.

[*Translation*]

Mr. Martin Champoux: Mr. Fares, of the productions you have produced in Canada in recent years, how many were originally in French?

[*English*]

Mr. David Fares: We launched Disney+ in Canada in November 2019, and we've launched in other markets around the world—

[*Translation*]

Mr. Martin Champoux: Mr. Fares, how many Disney productions made in Canada in recent years were originally in French?

I don't want to know the history, just the answer.

[*English*]

Mr. David Fares: Currently our productions in Canada are in English, but we are very proud of what we do in Quebec. I would like to just highlight those, if I can—

[*Translation*]

Mr. Martin Champoux: I totally agree. It's a simple question. I just want to highlight the importance here of protecting certain things that are perhaps less profitable for production companies, but which are culturally important for Quebec and Canada.

I would now like to speak with Mr. Rogers, from Music Canada.

Mr. Rogers, the recording industry in Quebec and Canada has undergone a major transformation since the arrival of the digital giants. I'm glad to hear that the record companies have managed to get their heads above water and to find other sources of income. Things are going well for companies like Sony, Warner and Universal.

However, the artists who are making a living from their music at the moment don't really get royalties from record sales anymore, because there are far fewer records being sold. You know this very well. For example, a few years ago, we heard that a Quebec artist had generated 1 million views, but that it had only earned him \$500.

I'm glad the record companies are getting back on track and finding something beneficial in this business model, but what about the artists? How can we improve their income in this world?

• (1215)

[*English*]

The Chair: Please answer in 30 seconds.

Mr. Patrick Rogers: This is one of the most important parts that our members play in the partnership with the artist.

As you know, the pickup of streaming in Quebec was generally low compared with other parts of Canada. Those numbers are changing, and our members, specifically, are excited about the opportunity to partner with wonderful Quebec artists and bring the best of streaming and the best of Quebec culture to the world.

[*Translation*]

Mr. Martin Champoux: Mr. Rogers, the chair is about to tell me that my time is up, but if you were—

[*English*]

The Chair: I'm sorry, Martin, but your time is up.

We now have Mr. Julian for two and a half minutes, please.

Mr. Peter Julian: Thank you very much, Madam Chair.

I'm going to give Mr. Rogers an opportunity to answer this important question on how artists can be adequately remunerated for the work they produce.

You mentioned, Mr. Rogers, that the numbers are changing. Do you have numbers you could provide to the committee?

Mr. Patrick Rogers: I think ultimately the streaming platforms would be the best to provide that information in terms of their customers and where they're at. We know that there's a lot of opportunity throughout Canada and particularly in Quebec.

Mr. Peter Julian: When you say that the numbers are changing, though, that is an important point for the committee to consider. If you have any additional information to provide to us, that would be helpful.

I also understand from your comments that you're very supportive of the provisions of proposed paragraph 3(1)(f) around Canadian employment. You cited Music Canada and the number of jobs in Canada. Could you comment a little bit more about the importance of having Canadians employed in these industries and making sure that there are benefits that go to Canadians right across the country?

Mr. Patrick Rogers: It's obvious, I think, that Canada's major labels are success stories in this space. We employ Canadians in offices in Toronto and Montreal. They're full of Canadians making Canadian music for the Canadian market and around the world. It's of note because often our members are not necessarily the clients of Canadian Heritage due to their ownership structure, but it's nice to see that the structure we have is the structure that the government is pushing on other players.

I think it's important because it's important to have people on the ground thinking about what's important in the Toronto market or in the Canadian market broadly. We've seen the benefits of that, and we look forward to discussing that further.

The Chair: Thank you, Mr. Rogers.

Peter, you have 11 seconds, nine seconds...eight seconds now.

Mr. Peter Julian: I will take the opportunity to say that I think the committee has been advised by numerous witnesses of the importance of maintaining Canadian employment. That's something we will have to consider moving forward.

The Chair: Thank you very much.

I will now go to the Conservatives.

Mr. Uppal, you have five minutes.

Hon. Tim Uppal (Edmonton Mill Woods, CPC): Thank you, Madam Chair.

Starting with Disney, just hearing from you about the Canadian content or Canadian stories that you have produced, I would think it would be a dream scenario, for someone who wants to have any story told, to have Disney tell it. There's also the job creation in Canada. I know that, like other provinces, Alberta, my home province, is working really hard to get major productions to come to the province and to create those jobs.

That's all being done without Bill C-11. What would bring a major international brand to Canada, not only to create jobs but also to create Canadian stories?

Mr. David Fares: Thank you very much for the question, MP Uppal.

I think, or I hope, I demonstrated in my opening remarks that we already are investing heavily in Canada and we hope to be able to invest more in Canada. We're investing in Canada because it's a great market to invest in, whether it is production or whether it is producing our own facilities or infrastructure in the marketplace with the virtual production stage that ILM is producing in Vancouver.

It's a good market today. What we are hoping is that Bill C-11 will preserve a level of flexibility such that we can continue to invest in the best way we can to the Canadian ecosystem based on the nature of our services. It's really a flexible regime that we're seeking, because we all do great things but we do things differently. We would just like to be able to maximize our investments by allowing us to do what we do best in the marketplace.

• (1220)

Hon. Tim Uppal: Thank you.

Patrick Rogers, in many situations when we're looking at international trade discussions, if one country has some sort of protective regime, others countries may respond. Are you concerned at all that other countries may respond with what type of content their populations start to see? There are so many artists, especially new artists, and especially artists who are Canadian who have, let's say, a cultural background. They might be from the Philippines, say, or from India. I know that a lot of Canadian Punjabi singers are getting massive views on their YouTube videos, not only from Canadians but from around the world.

Is there a concern that this part of it might be restrictive? I'm hearing from some people who are from different cultures and communities that this would actually hurt them and start to hurt their discoverability.

Mr. Patrick Rogers: I thank the honourable member for the question.

Look, Canadian music is global music. Canadian music is available to the whole world. We spend a lot of time, our members spend a lot of time and the Government of Canada has spent a lot of time exporting that music around the world. It has done so under the premise that the music is available through the Internet in a global fashion. I think anybody in the commercial space is concerned about the idea of raising guardrails, even well-meaning ones here, that encourage blocking Canadian content elsewhere.

I think your comments about diasporas and Canadian diasporas are very well made. It's something I would encourage the committee to think about carefully. I foresee needing to spend quite a bit of time on that at the CRTC in the future.

Hon. Tim Uppal: Thank you.

Patrick, you talked about a number of Canadian artists who have great success online. How are Canadians finding them? What are they doing? How are they finding them? Right now, without Bill C-11, how are we getting these millions of views? I think you mentioned somebody with billions of views. How is that happening?

Mr. Patrick Rogers: I am so glad someone asked me this question.

The Chair: You have 40 seconds.

Mr. Patrick Rogers: In 15 seconds, I will tell you everything I know about it.

The biggest point about streaming in the digital space is your ability to engage with your fans directly. That is as true for Drake and Bieber as it is for my daughter Grace's favourite group, Splash'N Boots. One of the wonderful things about streaming is that, as you put that information in, they will push back information to you that allows you to find more of that. My daughter, through listening to Splash'N Boots, discovered Sharon, Lois & Bram. The algorithm did that. That wasn't me, so "Skinnamarinky dinky dink" lives on in another generation—and it's Canadian content at that.

The Chair: Thank you very much.

I'm now going to go to Mr. Bittle from the Liberals, for five minutes.

Mr. Chris Bittle (St. Catharines, Lib.): Thank you very much, Madam Chair.

My question is directed to Ms. Auer. At a recent conference organized by the CDEC, you stated an interesting point about the current Broadcasting Act. You said that subsection 4(2) of the current 1991 act explicitly confers to the CRTC regulatory jurisdiction over all broadcasters operating in Canada, both "in whole" like the CBC or CTV, or "in part". You stated that these last two words "in part" effectively include all online broadcasting platforms within the 1991 act.

Could you expand on this, or explain this?

• (1225)

Ms. Monica Auer: I think we're looking at an act that was devised basically beginning in 1985, before the Internet had become more than a gleam in Al Gore's eye. At that time, the idea was that transmissions were coming from the United States, even from Mexico, and Parliament wanted to ensure that it had control over its

sovereign territory, including the transmission of signals. Perhaps that's because Parliament wanted to ensure that Canadian programming that was being transmitted was available to all Canadians. Also, perhaps it wanted to ensure that it could control the content that was available.

These days, however, the legislation is still intact, and Parliament has chosen not to say, "All you're going to control is programming that takes place in its totality within Canada." Having distinguished between "in whole or in part", it's up to the courts, to some extent, to decide what that "in part" means. I think common sense—

Mr. Chris Bittle: I've asked you, but.... As a lawyer, I can appreciate that it's ultimately up to the courts, and ultimately up to nine people down the road.

Ms. Monica Auer: Yes, but....

Mr. Chris Bittle: But your belief is that the legislation does confer that and, ultimately, the CRTC hasn't regulated in this ballpark to date. Is that a correct assessment?

Ms. Monica Auer: No, because it has decided to exempt online broadcasting from regulation. Having decided to exempt, it's asserted its jurisdiction. It does have jurisdiction over broadcasting online. That's not to say that it has jurisdiction over the entire Internet, just broadcasting.

Mr. Chris Bittle: There have been some incorrect interpretations of Bill C-11—this isn't directed at you, but to some other opponents, many across the way—related to user-generated content. Some go so far as to say that cat videos will be taxed. Many have focused on proposed section 4.2 to overstate the scope of the bill. There are 12 different places in the act that exclude social media users.

Can you speak to those sections of the bill?

Ms. Monica Auer: I'm not prepared to speak to each of those sections in detail. What I am prepared to say is that, from my perspective, Bill C-11 attempts to clearly regulate broadcasters, not individual users. There's a distinction. It is able to regulate broadcasters that carry content provided by users. It is very clear that it is not directly regulating users, but it is also clear that it has the power to regulate the platforms that carry users.

Mr. Chris Bittle: To follow up in terms of the minister's statement, the direction of the bill and what's been stated in the House by our party is that there will be policy directives coming forward. If there are policy directives that specifically scope out user-generated content, can you speak to the CRTC and if that will prohibit it from scoping that content back in?

Ms. Monica Auer: No, I don't think it would. First of all, I have a great deal of admiration for the legal minds at the commission. If it really wants to do something, it will find a way. The second point is that the commission has already, essentially, regulated users of the broadcasting system through the 1988 online programming guidelines. The commission did not regulate individuals calling in-to phone-in shows, it simply regulated the broadcaster's decision to carry specific individuals calling in. It did indirectly what it chose not to do directly. That's the point.

All you have to do is get the platforms in a room, ask them to develop a code of conduct, and then have somebody enforce a code of conduct whose effect is to regulate users.

The Chair: Thank you very much. It fits the time very nicely.

Now we have come to the end of this second round. I think we may want to chance the beginning of another round. If everyone wants to have some time, how about my asking if we could go to a three, three, two, two, three, three round.

How does everyone feel about that?

Peter.

• (1230)

Mr. Peter Julian: Thank you.

Just on a point of order, Madam Chair, Heather McPherson, a very capable member of Parliament for Edmonton Strathcona, will be replacing me on committee for the final few minutes.

The Chair: Thank you, Peter.

Welcome, Ms. McPherson.

I should begin then with for the Conservatives for three minutes. I will go with Ms. Thomas.

Mr. Michael Coteau (Don Valley East, Lib.): I have a point of order, Madam Chair.

Did you say we were changing the time from five minutes to three minutes?

The Chair: It's from five minutes to three minutes—three minutes and two minutes.

Mr. Michael Coteau: What's the logic behind that?

The Chair: I think Mr. Julian will tell you the logic behind that is that I think there may be a vote, and in case there is a vote, we will not be able to finish. I want everyone to have a chance to finish this round. That's all.

Mr. Michael Coteau: Would it be a 30-minute bell? How many minutes are the bells going to be?

The Chair: When the bell begins, I will ask for unanimous consent to continue for another 15 minutes. Now if we do that—

Mr. Michael Coteau: We would be able to have enough time. Isn't that right?

The Chair: No, because 15 minutes will give us 10 and 10 and 5—25. We would not have time to finish. That's why I moved it so that we could get the time.

Mr. Michael Coteau: Okay. Thank you.

The Chair: Thank you, Michael.

Ms. Thomas.

Mrs. Rachael Thomas (Lethbridge, CPC): Thank you, Madam Chair.

My first question is for Mr. Fares with the Walt Disney Company.

Mr. Fares, I'm hoping that you can perhaps just talk a little bit about the extent to which Disney has gone in order to generate Canadian content or content that would support Canadian creatives.

Mr. David Fares: As I mentioned in my response to an earlier question, we believe that every production we produce in Canada contributes to the health of the Canadian ecosystem because we're training Canadian talent and we're producing infrastructure in the marketplace. Over and above that, in my opening statement, I outlined three examples of Canadian stories that we have produced in Canada: *Barkskins*, *Turning Red* and *Washington Black*, which is still in production.

Mrs. Rachael Thomas: I was hoping that perhaps you could go into a little bit more detail in terms of your intentionality behind supporting Canada in this way.

Mr. David Fares: Thank you for asking that question, because one of the things I wanted to say was that we launched Disney+ in Canada in November 2019, and we've launched in other foreign markets since that time and we continue to launch in other markets. We've understood from our subscribers that they like local content on our service as a supplement to the global content that fits into the six brands that make up the totality of Disney+, which I have mentioned is unique compared to our competitors in the marketplace.

As we speak, we are actually developing a Canadian programming strategy right now for the Walt Disney Company and that is being conducted by my colleagues in Canada in the Walt Disney Company. We are looking toward the development of a local Canadian programming strategy indeed.

Mrs. Rachael Thomas: That's great.

In your mind then if Bill C-11 were to come into effect, would it help you generate more Canadian content or would it hinder the good work that you're already doing?

Mr. David Fares: I would argue that we are already producing a significant amount of content in Canada with a \$3-billion spend in the marketplace over the last three years. There is a massive amount of production. We, from the market, are being driven to develop local content, so I think it's actually the market that's driving us to do a lot of these things. It's ultimately up to the committee to determine if and how we're regulated. If you do choose to regulate us, we ask for that to be flexible so that we can continue to maximize our investments in the marketplace.

Mrs. Rachael Thomas: Thank you, Mr. Fares.

What I hear you saying is that the market is magical and that, when there is demand for something, which there appears to be for Canadian content—the celebration of Canadian artists and the possibilities that exist here within Canada to be realized—Disney is responding and going in that direction. Is that correct?

• (1235)

The Chair: Thank you. The time is up.

I'm going to Mr. Coteau for three minutes.

Mr. Michael Coteau: Thank you so much, Chair.

I will continue with Mr. Fares from Disney.

First of all, I want to say that I think everyone in this room appreciates the work that companies like Disney do in Canada and the investments into our economy. We know that a lot of people get hired. A lot of the production increases, and it generates more tax revenue. We're very grateful for the work that your company does.

The size of a company like Disney, the impact it has and the fact that it does production and controls a platform as well makes it really difficult for small and medium-sized companies, production companies in Ontario and other parts of Canada, to compete in this space. That's why the Canadian content piece is such an important piece. Companies like Disney benefit. Millions of dollars go back into the company for film and television tax credits from many different provinces.

David, how would you expect small and medium-sized production companies to compete in the same space as Disney in Canada if there are not incentives like the Canadian content incentives and everyone was kept on an equal playing field when companies like Disney have a massive...? A \$3-billion spend is incredible over three years, but it also controls the platform.

How do small and medium-sized production companies compete in the same space as yours if there's no distinction between the two?

Mr. David Fares: I mentioned two local production companies we work with in Canada. We've helped build up those local, independent production companies in Canada. When we work with those production companies, they build that expertise. When they go and pitch their stories to others, they have the fact that they have worked with Disney behind them. That's a real boost.

I think we see our work in the marketplace being complementary to what goes on in the local marketplace. As I said, we're looking to develop a local content strategy. We're doing that right now.

Mr. Michael Coteau: Don't you think that there should be some distinction between Disney and a small or medium-sized, Canadian-owned production company? How do they compete in that same space? Is there no distinction? As Canadians and as Canadian law-makers and regulators, don't you think we should distinguish between the two so it creates a bit more fairness for Canadian-owned companies that want to grow in this space to end up being like a Disney one day?

Mr. David Fares: I hope that many of them become a Disney one day.

I have a question to clarify something for you, if I might. Bill C-11 is going to regulate Disney+, not our production arms. I think that those are two different things. Are they not?

Mr. Michael Coteau: Disney is the production company, and it controls a platform.

I do appreciate the work Disney does. Don't think for one second we don't appreciate the work you do here in Canada. You're investing, you're hiring and you're growing the sector. Thank you, David.

The Chair: Thank you very much.

I now go to Martin Champoux for two minutes.

[*Translation*]

Mr. Martin Champoux: Thank you, Madam Chair.

Two minutes is quite short, but I would like to ask Mr. Rogers the following question.

Earlier, you talked about the platforms that were partners of your organization and the major record companies. In your opinion, is francophone music growing and healthy on digital platforms?

[*English*]

Mr. Patrick Rogers: To be clear, the digital platforms are partners with everyone in this space, not just the majors. Our colleagues are in the independent space.

Mrs. Rachael Thomas: I have a point of order. There are bells ringing.

The Chair: I will ask for unanimous consent to continue until we finish this round, please. That will only be eight minutes.

Mrs. Rachael Thomas: I'm sorry, Chair, but no.

• (1240)

[*Translation*]

Mr. Martin Champoux: Ah! That's very classy.

[*English*]

The Chair: All right. Thank you, Ms. Thomas.

I'm very sorry, Monsieur Champoux, but you are unable to ask your question.

I want to thank all of the witnesses for coming here today and for taking such a long time with us and answering a variety of questions.

Thank you again. This meeting is adjourned.

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