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**Jeudi 28 avril 2005**

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Ministry of Finance  
Ministry of Culture

**Comité permanent des  
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Clerk: Susan Sourial

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

## STANDING COMMITTEE ON PUBLIC ACCOUNTS

## COMITÉ PERMANENT DES COMPTES PUBLICS

Thursday 28 April 2005

Jeudi 28 avril 2005

*The committee met at 0938 in committee room 1, following a closed session.*

2004 ANNUAL REPORT,  
PROVINCIAL AUDITOR

MINISTRY OF FINANCE  
MINISTRY OF CULTURE

Consideration of section 3.13, media tax credits.

**The Vice-Chair (Mrs. Julia Munro):** Good morning and welcome, everyone, to the standing committee on public accounts. We're here this morning to discuss section 3.13 of the report, media tax credits. Welcome to those of you who have come to provide us with some insight. I'd ask you to introduce yourselves for the purpose of Hansard. You may begin, and we'll organize questions after your presentation.

**Mr. Colin Andersen:** Good morning, everybody. Thank you very much for having us here today. My name is Colin Andersen. I'm the Deputy Minister of Finance.

I'll introduce my colleagues who are going to help with the presentation today. On my right is Terry Smith, who's the Deputy Minister of Culture. We also have Michel Frappier, who's the CEO of the Ontario Media Development Corp., an agency of the Ministry of Culture. Marjorie Mercer, an assistant deputy minister of Culture, is here. On my left is Dario Savio, director of the collections and compliance branch, tax revenue division, of the Ministry of Finance. Ann Langleben will also come to the table at the appropriate time; she's the director of the corporate and commodity taxation branch with the office of the budget and taxation of the Ministry of Finance.

We also have other staff here who might assist us in answering any questions you may have, and I will ask that they introduce themselves if they come up to the table.

Once again, thank you for the opportunity to address the committee on the issues that were raised in the auditor's 2004 report on the Ontario media tax credits. Those tax credits help to attract jobs and investment and maintain a strong and growing entertainment sector in Ontario. As you know, this is a highly competitive environment. Many other jurisdictions have recognized what Ontario has: that the cultural sector does more than simply provide entertainment. It also creates jobs, attracts

investment and promotes tourism. Like Ontario, these other jurisdictions have invested in this sector.

We welcome the auditor's value-for-money review of the tax credits, as it supports the government's commitment to fiscal transparency and accountability, as well as its commitment to the province's cultural industries.

We're proposing to use our time this morning to take you through a brief overview of the tax credits, a little bit of background on the sector itself, what the administrative roles and responsibilities are of the two ministries and at the OMDC, and then a summary of our response to the auditor's recommendations.

You've all got copies of the slides in front of you. We're going to trade off a little bit with regard to speaking to each of the recommendations as they come forward. To start, I'd like to turn it over to Terry Smith to say a few things.

**Ms. Terry Smith:** I want to direct you to the slides, and I'll just go through the first few. The tax credit program has been in place since 1996, and it supports publishing, film, television, digital media and computer animation. The program really helps support content development—which is very essential to Ontario, to have our own content—and it helps the industries grow as industries, so twofold reasons, and it helps not only the industries but the authors, the filmmakers and the actual professionals who work in the area.

The tax credits have helped to make Ontario the leading jurisdiction in media development in Canada, and we have been proud of that role. Other jurisdictions have copied our programs and tax credits, and as you know, we've had a little bit of competition from them. But in Ontario it's a program that provides \$7 billion in revenues and stimulates over 45,000 direct jobs and probably three times that in indirect jobs in the industries.

Stakeholders like the program because it really helps them grow and develop their products and their ability to tell our stories to other areas, so we have our own unique Canadian films, records and books.

In December, as you may know, the government made some changes to the film tax credit because we were lagging behind other jurisdictions and actually losing many productions to foreign jurisdictions and to other jurisdictions in Canada. The film and television tax credit was increased from 20% to 30% and the production services tax credit went from 11% to 18%. Almost immediately, as soon as that was announced, we had calls

to say productions were coming back to Ontario. In April, we had 11 significant new productions, and at least five more are coming. Overall, in the spring, Ontario had 36 productions here, which was a 56% increase over the same period in 2002 and 2003. In discussing this with the filmmakers and producers of these products, they have indicated to us that had it not been for the changes to the tax credit, we would not have those productions here today.

I just want to outline very quickly for you our different roles. The tax credits are administered under section 43 of the Corporations Tax Act. The Ontario Media Development Corp., the Ministry of Culture and the Ministry of Finance share this responsibility. The Ontario Media Development Corp. does the certification on the eligibility of the applicants and their activities, they provide us with information and statistics, and they monitor the activity within the industry.

Our ministry provides policy advice to the Ministry of Finance on the status of the cultural industries and the impact of the tax credits. Of course, the tax revenue division of the Ministry of Finance processes and does the audits on the returns when the credits have been claimed, to verify the evidence.

I'm going to turn the presentation over to Michel Frappier, the chief executive officer of the Ontario Media Development Corp.

**Mr. Michel Frappier:** Good morning. I will touch first on the overall audit findings:

"A number of constructive steps have been taken in recent years to mitigate the potential risk of tax credits being incorrectly determined as a result of fraud or abuse."

"OMDC had put in place reasonable procedures for assessing eligibility of tax credit applications."

However, "eligibility applications were not being processed in a timely manner, which resulted in delays in the issuing of certificates of eligibility and a significant backlog...."

The delays at OMDC in determining eligibility were "compounded by delays at the Ministry of Finance in processing tax credit claims."

Audit risk assessment was not documented in the Ministry of Finance audit files.

While the three parties had developed high-level performance measures, "the establishment of more specific indicators of economic and cultural performance would better measure the effectiveness of ... the credits in achieving their objectives."

I will now deal with the recommendations, as far as where we come from.

Recommendation 1: The value-for-money audit recommended that:

"To better manage the risk of non-compliance and to improve the turnaround time for applications, the ... OMDC should:

"—consider each application's complexity and the risk of non-compliance when assigning assessment staff to review applications; and

"—expedite the claim review and approval process without sacrificing the key verification and approval processes."

OMDC minimizes the risk of non-compliance by making certain that all its analysts are capable of assessing complex files. Through performance planning and regular monitoring, analysts maintain knowledge of current industry practices and trends.

A previous system which streamed more complex files prior to review was not effective, as it proved impossible to pre-identify complexities. OMDC has restructured its file assignment system to better manage risk. For example, we found out that budget was not a reliable indicator of complexity.

Since the audit, the OMDC has addressed the recommendations in the following ways:

OMDC is formalizing a risk assessment process where tax credit analysts identify high-risk applications at the beginning of the review. Thus far, the files identified by analysts as high-risk will undergo a more rigorous secondary review by tax credit team leaders.

A skills and knowledge index has been created and implemented to ensure that all business officers reviewing applications have the requisite skills to assess the most complex files and to formalize the training process for business officers. Officers use the index as a tool to develop learning plans to continually upgrade their knowledge.

Processing turnaround has been reduced significantly since the introduction of the tax credits, and the audit acknowledged that OMDC was making a concerted effort to reduce its backlog. Even though the number of applications has increased from the 2000 fiscal year to 2003, cycle times have been reduced from 27 weeks to 19 weeks. Since the audit, cycle time has been further reduced. At the end of March, turnaround time for the fiscal year was 14.3 weeks.

OMDC has not sacrificed due diligence in order to streamline processing. We will continue to reduce our turnaround through internal streamlining, in co-operation with the Ministry of Finance and federal agencies.

**Mr. Dario Savio:** I'll be dealing with recommendation 2, which is that "the Ministry of Finance should ensure that eligible claims are processed in a more timely manner."

What is being done so far: Recognizing the need for speeding up claims, the ministry has put in place a process of making sure that up to 85% of the film tax credits are paid within a six-week time frame. Currently, 75% of the partial refunds are paid within the six-week target period and 87% within eight weeks. Some of the delay is in getting information from the companies filing the claim to make sure that there are justifiable expenses included in there, and also in audits that need to be done before the payment of the claims.

The Ministry of Finance and OMDC continue to explore means of increasing the amount of funds paid in a timely fashion and trying to cut down on the amount of time it actually takes.

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Recommendation 3 is that the ministry should ensure that “claims are selected for audit based on assessed documented risk” as well as “stated ministry policy.” The second part of that is that the results of the audit should identify possible trends.

What is being done: The ministry has established risk criteria for review of all claims that are received. The ministry has also put in process risk criteria for each account coming in, to determine those that would require desk review and those that would require field review.

Every file that is reviewed has a risk component attached to it. For each file, at the conclusion of its review there is a summary sheet that is included in the file for subsequent follow-up. The ministry is in the process of identifying trends in order to feed back into the audit process and communication to OMDC in order to expedite the process even more.

**Ms. Ann Langleben:** My name is Ann Langleben. I’m the director of the corporate commodity tax branch, and I’m here to address recommendation 4.

The recommendation was that in order to ensure that the media tax credits are achieving their objectives, the OMDC, the Ministry of Finance and the Ministry of Culture should work together to develop specific performance standards and targets, and should update the memorandum of understanding to clearly define each party’s responsibilities with respect to performance measurement and reporting, and obtaining the information needed to monitor performance.

The government has begun a process of regularly reviewing all tax expenditures as part of its commitment to increase fiscal responsibility and accountability. The 2004 budget announced that, as the first step of its review of tax expenditures, a number of tax expenditures would be modified or eliminated, and that, in general, any new tax expenditures would be time-limited to ensure that they’re reviewed for their effectiveness. The government also made a commitment to publish annually estimates of the cost of tax expenditures. The Fiscal Transparency and Accountability Act requires the Minister of Finance to release this information with an annual mid-year review of the fiscal plan on or before November 15.

For any tax expenditure in the tax system, there’s difficulty in isolating and measuring its impact. It is part of the broader tax system. What the Ministry of Finance is doing right now is working with OMDC to explore the feasibility of applying specific performance targets and standards to the media tax credits. Possible performance measurements would include tax credit take-up; increases in film and television production activity associated with the credits; and the number of projects that are undertaken or that receive credits—films, books, sound recordings, and the other media credits as well.

The film and television tax credit enhancements that were announced in December were proposed to be time-limited and subject to performance reviews. The Ministry of Finance is currently working with the media development corporation to update the memorandum of

understanding to better clarify responsibilities with respect to performance measures and obtain the information needed to monitor performance.

**The Acting Chair (Mrs. Liz Sandals):** Are there questions from members?

**Mr. David Zimmer (Willowdale):** Just some questions on what I think are perhaps some systemic issues. Throughout the report it’s quite clear that some of the problems seem to flow from the lack of staff, in terms of absolute numbers of staff and perhaps the skill set of staff to quickly and adequately deal with the applications. Can you give me some idea of the volume of applications you have to deal with and the workload that’s involved, in terms of manpower needs and so on?

**Mr. Frappier:** We process roughly 1,000 applications a year. We have 17 people. Some of our people on staff are MBAs, chartered accountants and lawyers. In order to streamline the process, we added a contract person who used to work with us. That has allowed us to reduce our time down to what it is today, at 14.3. It’s our intention, as well as working with the Ministry of Finance, to continue to find ways of streamlining the process so that we can reduce this further.

**Mr. Zimmer:** A component of dealing with that is the IT issues, the technology issues, I expect, in processing and analyzing. Is the IT component of the unit up to the mark?

**Mr. Frappier:** Certainly, we’re building a database which helps us to truly identify it. What you have basically are a lot of recurring clients and, as such, it allows us to speed up the process in some cases. We have looked, and so have the feds, at doing a whole sort of electronic processing, and it’s really too complicated. It would be putting an added burden on the industries, to the point where, in fact, it would make it very unattractive.

**Mr. Zimmer:** So I gather this work, then, can be done without attention to further IT needs?

**Mr. Frappier:** No, we continue to improve. It’s mainly in terms of the database of clients that we keep. We just put in a new database system; in fact, the first sector to have the improvement has been tax credit.

**Mr. Zimmer:** You’re satisfied that the manpower needs and the IT needs going forward are up to the challenge?

**Mr. Frappier:** I believe they are. We constantly work with both Finance and Culture to see ways of making the whole process that much more flexible, without sacrificing the risk element of each of those files.

**Mr. Zimmer:** There seems to be a distinction in the comments that I’ve heard between complex files—those are referred to quite often, so I gather that there are files that aren’t complex. So my question is, are there any of these applications that are not complex?

**Mr. Frappier:** Absolutely. You see, size is not an issue in terms of whether or not it’s a \$100-million picture, which we don’t get every day, or whether it’s a \$5-million picture. Mainly, I would imagine, the smaller to medium-type files do not complete their application in a way that forces us to be that much more vigilant in terms

of assessing the risk in terms of who are the people working on their productions.

**Mr. Zimmer:** What percentage of the 1,000 applications that you might deal with are complex?

**Mr. Frappier:** About 40%.

**Mr. Zimmer:** There was an expression in one of the presentations early on about content development. That's one of the goals. I'm just unclear; what does the idea of content development entail?

**Ms. Terry Smith:** I can speak to that. It's in the development of our sound recording industry, our books, our films. They are stories told, in and around, about Ontario and Canada, and stories told by Canadians. So our music is music that's created by a Canadian, an Ontarian, as opposed to stories and films that are told from other countries and other lands, which often is the case.

If you look at any of the movies that are in movie theatres, a large portion of them—probably 90%—are films from the United States or other jurisdictions. Ontario films are hard to get into the large movie houses, so we are trying to increase the development of Ontario films and increase the marketing of those films, so that we will become more of a leader in that area.

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**Mr. Zimmer:** Two more short questions. That leads to my next question: Is there a difference in how an application is treated between, say, a big American movie that's geared for the American or the international market, and an application that is geared to more, to use your expression, Canadian or Ontario content?

**Mr. Frappier:** No, there are no differences. They're all treated equally. They all go through the same rigour. There are two different tax credits, but the process is exactly the same for both.

**Mr. Zimmer:** Is there any sense—and don't take this question the wrong way—that one process is more or less rigorous?

**Mr. Frappier:** Absolutely not.

**Mr. Zimmer:** So the Canadian-Ontario doesn't get a little bit of a leg up or anything?

**Mr. Frappier:** No, we'd be contravening the law.

**Mr. Zimmer:** All right. I just wanted to ask the question. My last question is about the trick to keeping the credits in place in the international market to attract the real money-makers from the US. Are there any provisions in place to adjust for the shifting Canadian dollar, which is a real challenge? How quickly can you react to currency fluctuations?

**Mr. Frappier:** Well, we can't peg the dollar. That would be really neat, to be able to do that. Basically, a lot of the suppliers—the studio owners as well as some of the unions—have been quite flexible when the dollar began to go well over 80 cents. But I think, at the end of the day, Ontario offers so much—especially now, with the new tax credit—that we're able to continue to attract these productions. We have the infrastructure, the people and the talent that allows us to do that, and it makes Ontario very much a desirable place to come and shoot. So far, since the tax credit was announced, we've seen quite an increase.

**Mr. Andersen:** Maybe I would add just one thing to that, which is that the announcement made back in December about increasing the tax credits still has to be put through legislation this spring.

**Mr. Zimmer:** Movie financiers move quickly—you made the adjustments in the tax credit, and you said the next day they were on the phone—and they can leave just as quickly. Is there any analysis given to having the credit somehow float with the fluctuation in the value of the dollar, so you could adjust it up or down to attract American films?

**Mr. Andersen:** That suggestion has come forward before. It would factor into some of the design of any legislation that would go forward with regards to putting in place the changes that are there now. It's sort of a stay-tuned thing.

**The Vice-Chair:** The auditor has a question, and then we'll come back to it.

**Mr. Jim McCarter:** Just a quick question to follow up on Mr. Zimmer's. I get the feeling that because of the increased tax credit, there could be significantly more applications coming in over the next year. Do you feel that you have the resources to handle a significant number of increased applications? How are you going to manage that, if that's the case?

**Mr. Frappier:** What we're seeing right now is that the level of production is going back to what we call pre-SARS level. Since then, we've added one contract person. I think we're well equipped to handle the increased business.

**The Vice-Chair:** I think Ms. Smith is next.

**Ms. Monique M. Smith (Nipissing):** I will show my bias toward books in my question, just to warn you, Mr. Frappier. The 14.3 weeks of delay for the credits, is that an average for all the types of credits, or is that specifically with respect to film and television?

**Mr. Frappier:** It's an average of all credits, but books is lower.

**Ms. Monique Smith:** Good. When you talk about triaging through for the complex and the simpler applications, is that done by each sector—by each of the six tax credits—or is that done generally, as the flow of all applications comes in?

**Mr. Frappier:** No. What we have at OMDC are specialists. Even though we move people around, we have people who have come, in the case of books, from the publishing industry. We have people attached to publishing, to music or to new media. As such, they develop quite an interest in and knowledge of the industry and are able to react much faster than a generalist would.

**Ms. Monique Smith:** Right. I think you spoke earlier about the fact that some of the applicants become known to the OMDC, because they're there every year. Certainly in the book industry, there's a certain cadre of book publishers in Ontario that doesn't change that much from year to year, as we know only too well. I'm just wondering if that is a factor, that because they're a known quantity, you can move them through a bit quicker.

**Mr. Frappier:** Well, I would imagine that the applications are less complex, because you don't have the huge labour pool that you would have on a film or on a TV production, so I think it's much easier to process.

**Ms. Monique Smith:** What are some of the measures that you're working on with the federal government to streamline the application process for the various sectors?

**Mr. Frappier:** I will have to ask one of my colleagues. I know there are discussions on that.

**Mr. Savio:** We have a working relationship with CRA. On any claims that are through them, we will follow their lead. So there is an ongoing working relationship with CRA and there are a number of efforts to enhance our relationships with CRA.

**Ms. Monique Smith:** Great, because I know it's very important to all the different sectors that we streamline the applications so they're not reinventing the wheel every time they turn around.

I noticed in the OMDC annual report for 2002-03, when I'm looking at the tax credit applications received and certificates issued, that there are numbers of applications listed for all the different sectors. However, there are only dollar values attached to film and television and production services. Is there a reason why there is no dollar value attached to the total value of tax credit requests for books or sound and there is no total production value for books or sound?

**Ms. Gina Vanni:** I'm Gina Vanni, the acting director of the tax credits group. The book and sound recording credits are different in the legislation in that it's not the OMDC's responsibility to estimate the amount of the credit on the certificate. We do ask for information for statistical purposes, so we ask applicants to provide information for books and sound recordings. We're looking at reporting that on a going-forward basis, but the estimates are filed with the Ministry of Finance in those cases. For the other credits, the OMDC's responsibility is to estimate the amount of the credit, and not for book and sound.

**Ms. Monique Smith:** And why is that different? Why is it different for book and sound than it is for film?

**Ms. Vanni:** It's in the legislation that it's our responsibility for the other credits and not for the book and sound credits. Maybe someone from finance can't speak to you about the purpose behind putting that in the legislation for one and not the other.

**Ms. Langleben:** The other media credits are part of the general tax system. As such, they are administered through the Ministry of Finance, and there is no agency like the OMDC to administer them, or in other words, to—

**Ms. Monique Smith:** Sorry. I'm confused. I thought that the OMDC does administer the books and sound tax credits. I'm just trying to figure out why there's a different reporting structure.

**Ms. Langleben:** Why it's not reported?

**Ms. Monique Smith:** Yes.

**Ms. Langleben:** Well, the value of those tax credits will be reported as part of the Ministry of Finance's annual tax expenditure review report.

**Ms. Monique Smith:** OK. And it's just an anomaly of the legislation that requires you to report books and sound and that the OMDC reports film?

**Ms. Langleben:** We will be looking at exchanging information through the MOU, and certainly we can explore ways of streamlining the reporting system in this area.

**Ms. Monique Smith:** Sure. I just think that if the OMDC is going to be reporting on what they're doing, it makes sense to report all the activity, as opposed to just film and television, because historically the OMDC has been seen as favouring film and television—at least, that's what I hear.

To that end, Mr. Frappier, we received a backgrounder as part of our information on the Ontario Media Development Corp. We received a backgrounder on tax credits for films and television production. Part of that lists the productions in Ontario. Certainly there have been some impressive productions in Ontario in 2004, including Cinderella Man, which is getting lots of hype right now, and a number of other very popular films. I was wondering if the development corporation does a similar backgrounder for books and sound and lists the artists and production of those different sectors as well. We didn't get that this morning and I just wonder if it's available.

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**Mr. Frappier:** My colleague tells me we can't do it because we can't release proprietary information in terms of the tax credits. We would have to go to each of the publishers and ask if they would allow us to publish that list.

**Ms. Monique Smith:** Is that, again, a product of the legislation and the differences? I guess I don't understand why you can publish the list of movies that you've given tax credits to but you can't publish the list of books.

**Mr. Frappier:** We do that through the locations library. OMDC operates one of the most sophisticated digital locations libraries in the world, so we know all the films that have come to us and we know the ones that go forward. This is not information that we gathered through the tax applications.

**Ms. Monique Smith:** OK. So this is from the location library. These are the films you've assisted through the location library and other programs of the OMDC, not necessarily the tax credit?

**Mr. Frappier:** That's right.

**Ms. Monique Smith:** That's it for me.

**The Vice-Chair:** We'll move to Mr. Flaherty.

**Mr. Jim Flaherty (Whitby–Ajax):** Good morning. I was thinking through these tax credits and what I'd heard over the years. A big complaint, and the Auditor General has touched on this, was timeliness. That's what I used to hear from the people in the business: "Where's the cheque?" A lot of the players in the business are small businesses and it means a lot to them to get the money on a timely basis. I was reading through the Auditor General's recommendations and I've listened to what was said this morning. There was an attempt back in April

2002 to improve the timeliness—there's a reference to that in some of the background material—and now there are the more recent efforts to improve the timeliness. "In April 2002, the Ontario government announced a new fast-track system to address backlogs and industry complaints." I'll stop there for a moment. Was that effective?

**Mr. Savio:** In 2002, the specialty assessment unit was established because of the sensitivity around the delay in payments to the industry. That is a dedicated group that deals exclusively with these credit claims that have been provided. The time frame, as indicated in the slides, has now been reduced: 85% of the funds are generally paid out within a six-week time frame. I would suggest that the process has taken into consideration the sensitivity of the industry and has responded to it. There is additional work taking place between the Ministry of Finance and OMDC to further streamline the process and provide to the industry as much money as possible once the preliminary reviews are conducted.

**Mr. Flaherty:** So we had the April 2002 initiative. Then the Auditor General came along and audited it and made further recommendations basically to speed things up at both places. When was the progress made, or is it a continuous effort to speed things up? I'm just trying to understand what the effect was of the April 2002 initiative and what the effect was of the Auditor General's recommendations in 2004.

**Mr. Savio:** In 2002, the turnaround time was much longer. From 2002 to now, it has been cut dramatically to the six weeks that has been mentioned several times. That is the current situation to date, and through continuous working relationships with OMDC, as well as CRA, we see that we would move forward to yet improve that.

**Mr. Flaherty:** Do you have any measures in either—I mean, I was reading the memorandum of understanding. I love government, you know. I've now figured out the acronyms, so I think I know who is who in the memorandum of understanding. I think I get it now. If anyone outside of government read this, I'm sure they'd be intimidated trying to understand who's who and who is doing what.

There's the eligibility function and there's the auditing function. Do any of the locations do any customer satisfaction work? That is, do you ever go ask people who apply for these grants, and some of whom get them, how happy or unhappy they are?

**Ms. Terry Smith:** I can speak to that. The OMDC does do round table sector discussions with the various components of the industry. They'll bring sound recording representatives in to talk about how well the programming is going, not only the tax credit program but the other programs of the OMDC, and get feedback so that each year they can look at their programs and see if they can make adjustments. They do that in all of the sectors.

**Mr. Savio:** On the satisfaction, maybe on the flip side, up until 2002 a number of complaints were filed about the processing within the Ministry of Finance—getting

the tax credits out—and the complaints now are negligible.

**Ms. Terry Smith:** I have to say as well, from a ministry perspective, that we also meet with the industry reps, who are very vocal in what they like and don't like in the programs, and we do that on a regular basis.

**Mr. Flaherty:** That's good. I was reading the various steps in the process. Has thought been given to having fewer players in the process? That is, is it necessary for the first part of the process to be done with the OMDC and have an audit function there and a certification function there, and then have, over at finance in the tax branch, the processing of the actual credit dollars? Is it necessary to have these various offices all involved in dealing with these businesses that are seeking these credits?

**Mr. Andersen:** We are in fact looking at which parts of the process could be done concurrently. There are different functions there and some different skill sets and expertise. The OMDC obviously has more working knowledge of the industry itself with regard to them looking at the eligibility of the productions that are going forward.

When the credit applications come forward, they're in the broader context of the company's overall corporate income tax return, so we're looking at more things than just the tax credit itself. Aside from our statutory responsibilities, we're looking at a few more things.

Now, that being said, we are trying to look at which parts of that could be done concurrently to try to streamline that as much as possible, and there have been some improvements made in that area.

**Mr. Frappier:** What has happened in our case is that over the years, we've developed a lot of specialists. As I said before, we have people who come from the industry who have a greater understanding. Over time, I believe these people have developed a kind of expertise that helps us respond to our stakeholders in a way that is fast and shows an understanding of their needs.

**Mr. Flaherty:** Good for you for speeding things up. I think that's great.

The last thing I want to ask about is a broader question—and the Deputy Minister of Culture touched on it—about the effectiveness of these tax credits and how things have come back quite a bit since the tax credit was increased and we're more competitive with some of the other jurisdictions in Canada.

In the auditor's report, there was a statement that "no statistics were compiled to demonstrate the impact caused specifically by the tax credit initiatives..." I'm wondering if that situation has changed. Is there anywhere, in any of the ministries or in the OMDC, that statistics are being compiled to demonstrate the impact caused specifically by the tax credits?

**1020**

**Mr. Andersen:** I'll start off and then hand it over to Ann. One of the tricky things in trying to assess the impact of tax credits is trying to isolate the impact of the credit itself versus a number of the other things that

factor into that. Obviously the Canadian dollar impacts these particular productions quite significantly. But we also have an available labour pool that's well trained, a number of good locations and a variety of advantages in that regard.

In the announcement we made back in December, we talked about the fact that when this credit comes forward, we'll be doing some of the same things we're going to be doing with other tax credits, which is that most of them will have an annual review or a performance review before the end of their lifetime. The production services credit, for example, will have an annual review, and the film one will be reviewed before January 1, 2010. We're going to be working with culture and the OMDC on what the appropriate performance elements of that might be because, aside from just take-up—that's an interesting statistic to collect, but you can't always isolate whether that additional activity is just as a result of the tax credit, particularly when, subsequent to our announcement, there were maybe three or four other provinces that made changes to their tax credits, and trying to isolate the impact of the Ontario tax credit alone is not the easiest thing to do.

Ann, did you—

**Ms. Langleben:** I think that about covers it. We will be working with the Ontario Media Development Corp. to explore the feasibility of developing specific performance targets and evaluating effectiveness.

**Mr. Flaherty:** Specifically, do you compile statistics with respect to the performance of the other Canadian jurisdictions that have similar tax credits and compare them with our own performance in this economy?

**Ms. Terry Smith:** Yes, we monitor it on a regular basis and track how many productions and how many jobs. The other thing we are working with the industry on and sort of pilot testing, so to speak, is asking individual film companies the impact, to record the expenses of a particular film shoot or a book that would have received a tax credit and to help us identify the costs and the implications of that tax credit and whether they had the tax credit or they didn't have the tax credit. We felt that if we could document a couple of examples in each of the industries, it might help us better identify key performance measures and a way to work with the industry to identify the real impact of the tax credit itself. They are now working out some processes. We're starting with a couple of film companies to help us to do that.

**The Vice-Chair:** We'll go to Ms. Mossop.

**Ms. Jennifer F. Mossop (Stoney Creek):** It seems clear, from your presentation and the conversation, that you have taken into consideration the recommendations from the Auditor General on a go-forward and incorporated those in the new program. I just want to get a sense of feedback; as Mr. Flaherty so succinctly put it, "Where's the cheque?" is one of the big things you hear from people in this industry. But I'm wondering what kind of feedback you're getting from the industry in terms of the regional bonus. Are we getting a response to that at this stage?

**Ms. Terry Smith:** Those who work in the regions absolutely love it. Those who work in Toronto think it's unfair. We have a balance. The regional bonus certainly helps smaller productions, particularly in northern Ontario, in Sudbury, and in the eastern region, in Ottawa. Particularly for francophone producers it's a godsend. So it's a balance.

**Ms. Mossop:** Again, because you have fairly constant contact with the industry, what kind of feedback have you gotten on the change in the wait time?

**Mr. Frappier:** At this point, I think they've seen a huge improvement. Three years ago, as I said before, we were something like 29 weeks at our end. We're down to 14.3 weeks as of the end of the fiscal year. As I said, we're continuing to work with our colleagues at finance and culture to streamline this process. I think that the industry is quite pleased with what's happening. Of course they'd like to have it tomorrow, but I think we are working quite hard to improve every year. We've set some goals, not only for film and TV, but for every credit.

**Ms. Mossop:** We've talked about a little bit about the streamlining of the system at this end, but do you get much feedback at the other end in terms of the ease of applying or understanding the tax credit and eligibility?

**Mr. Frappier:** One thing we've been doing at OMDC is a lot of outreach. Throughout the year we do information sessions with the different parts of the film industry: documentary, fiction, service producers and regional producers as well. We tend to go around and use opportunities to encourage people to make use of it and then do information sessions to allow them to better understand it.

We had one about two months ago where I believe we had over 100 people, to help them understand not only what we're doing but what CAVCO and other federal bodies are doing.

**Ms. Mossop:** In terms of performance measures, are you getting the response from the industry in that area? Are they working well with you at this point?

**Mr. Frappier:** I think the relationship we have with the industry is outstanding, and I think it's there because we listen; we take time to do the outreach I've just spoken about. Given that, I think they are forthcoming with some of their ideas and recommendations but also their appreciation.

**Ms. Mossop:** If I could just shift over to the content side for a minute, I'm wondering what constitutes Ontario content. Is it hockey and maple syrup? What exactly are the criteria there?

**Ms. Terry Smith:** It's not hockey and maple syrup. It's who the actual author of a book is, where they reside and those types of things. The actual content—it could be an Ontario writer writing about somewhere else, London or someplace else. It's the actual producer or author of a book or a sound recording or a record that the content—that's what the tax credit is around, and it's the person, the Ontario resident who is producing on the Ontario-based tax credits.

**Ms. Mossop:** That's fairly well understood in the industry?

**Ms. Terry Smith:** Yes. Of course it is.

**The Vice-Chair:** We'll move on to Ms. Sandals.

**Mrs. Liz Sandals (Guelph-Wellington):** One of the things that the auditor has mentioned in his report has to do with risk assessment. My sense, when I look at the report, is that there's some difference between OMDC and finance. Finance, I take it, has categories of risk assessment, and OMDC, at least at the point where the auditor was doing the report, wasn't doing a risk assessment as far as I could figure out from the report, although perhaps from some of your comments, I think you have begun to address that.

I guess the first question would be, are you dealing with essentially the same information, or are there two organizations dealing with different information because one is dealing with eligibility and one is dealing with actual expenses? Is that the reason for the difference? What sort of struck me was, if you've got a flow of similar information, why is one organization not doing risk assessment and the other organization is doing some form of risk assessment, and why the difference in the approach? If somebody from whichever ministry wants to dive in could deal with that, it would be helpful.

**Ms. Vanni:** We are dealing with different information. At OMDC we're focusing on eligibility criteria, which are not looked at at the Ministry of Finance. They're auditing the claim, so they're looking at the expenditures. We do see some information on expenditures, but where we're assessing risk is whether or not the applicants meet the eligibility criteria. So it is different information. Since the audit, we have come up with what we consider a formal document that has risk indicators for eligibility criteria, and we have that in place in our reviews now.

1030

**Mrs. Sandals:** So you would now have your folks who are dealing with the applicants looking at what the risk factors would be in your case, if you're dealing with a different set of information.

**Ms. Vanni:** Right. They're somewhat different across the sectors, and I imagine some of the risks are the same for the Ministry of Finance. We do look at whether or not we've seen a corporation before, if we've certified them in a previous fiscal year; if it's a television series, whether it's a subsequent cycle. So in the third cycle of a series with the same creative people behind it, it would be a somewhat lower risk. Sometimes it varies based on whether someone is a new publisher or a sound recording company that's new to the industry. Those are a few examples.

**Mrs. Sandals:** Is there then some coordination of that information? If you flag it on the eligibility side with some concerns about ability to deliver, does that get carried over to finance when it becomes a finance file?

**Ms. Vanni:** By the time we certified it, we would have resolved any issues with respect to risk. We would just have a more rigorous review on our end. But if we do notice anything in the file with respect to the expendi-

tures that we think finance needs to know about, we definitely alert them. We send them a copy of every certificate we issue with notes and with supporting schedules, if appropriate, on each file.

**Mrs. Sandals:** So if you see something which on the face of it should be eligible, given the information you've received, but you're not absolutely certain about the delivery of that, then you would flag that for finance? Am I sort of getting it?

**Ms. Vanni:** No, it's a little different. Finance won't look at the eligibility of the production or the book or sound recording, so once we've certified that, we've resolved any issues we've flagged up front at the beginning of our review. We will notify the Ministry of Finance, in cases where we're also looking at the claims for the film and digital media credits, of anything we've noticed in that claim that may be something they need to look into in more detail.

**Mr. Savio:** If I could deal with the second part of that answer, with OMDC it's very much a front end, whereas with finance it's after the fact, when the return is filed. What we would test for is actual expenditure: that the expenditures have taken place, and that the expenditures took place in Ontario, because there are productions that span different jurisdictions. Those are some of the reviews we would conduct, and they're strictly from an expenditure point of view.

**Mrs. Sandals:** So your function might be more sorting out, if some of the shooting was in Ontario and some of the shooting was in BC, that they're not trying to double-claim for tax credits in two provinces.

**Mr. Savio:** Exactly, and that certain expenditures allowed under the act are included, whereas other expenditures that are not to be included under the legislation would be excluded.

**Mrs. Sandals:** I'm pleased to hear that the risk assessment piece—I think it sounds as though you're working on the auditor's recommendation in that respect. The information we had in the report didn't indicate you were working on it, so thank you for that update.

**The Vice-Chair:** We'll go to Mr. Marchese.

**Mr. Rosario Marchese (Trinity-Spadina):** With respect to the turnaround from, I think, 29 weeks to six weeks, is that due to an increase in staff or to a streamlining of the process because you've become a little more knowledgeable about how to do that, or both?

**Mr. Frappier:** In our case, at the OMDC level, we've gone from 29 weeks to 14 weeks. I think it's a mixture of both adding some people as well as streamlining.

**Mr. Marchese:** And the Auditor General helped a little bit, right? Just a little bit?

**Mr. Frappier:** In fact, if we look at our track record for the past three years, it was before they came and visited with us, but we always welcome their input.

**Mr. Marchese:** We do too.

On page 9: "OMDC minimizes the risk of non-compliance by making certain that all its analysts are capable of assessing complex files." Does that mean that before, people were not able to analyze complex files and now they will be? If so, are there criteria that you apply

or is it just training in an overall sense or is there something specific that you do?

**Mr. Frappier:** No. We've done a lot of training, but one thing we had not done is formalize our training. We've done what we call a performance index, where each of the business officers takes a look at what some of the areas are where they would want to get even more information. We've put in place—in fact, we said we'd do it by the end of April. Now it has been formalized. This way it's sort of double insurance that we keep—we've formalized the training for these people.

**Mr. Marchese:** I was interested in the issue of content development. I'm interested in a general way to have all of your feedback, if that's possible. You might not even have a comment. I'm not sure.

Ninety-seven per cent of all screen time is controlled by the Americans—we all know that; we only control 3%—85% of the music industry is controlled by the Americans, and 85% of the book industry is controlled by Americans and, to some extent, the British. We have a little pie. Two questions: Does it concern any of you? And if so, do you have any ideas of how we turn this around?

**Ms. Terry Smith:** It does concern us; it concerns us greatly. Content is something that we work very closely with the federal government on, because copyright is within their jurisdiction. It's primarily to do with the copyright laws, so we are working with them. We are also working with UNESCO to ensure that other jurisdictions understand the value of content and telling our own stories, so there is a very large initiative underway with UNESCO, other countries, the federal government and ourselves to really develop a manifesto—that's not the word—a proclamation about the ability for countries to produce their own.

The sound recording industry recently, because of all the new technology and the development of independent record producers, has actually begun to gain some ground. Canada, as you know, has very renowned recording artists who are known throughout the world. We are gaining some ground on that. We're not yet the large music producers, but when we recently met with music industry reps a few weeks ago, they were telling us that there has actually been a slight turn in the development. So we're looking for ways to help the industry further that development, and we really believe that, through creative and content development and innovation, we'll be able to provide some ways to help them.

**Mr. Marchese:** Broadcasters have very few incentives as it relates to film to produce or help to produce Canadian-made productions or films in general. It's easier for them to buy something American, so much cheaper to dump their stuff into our markets than to either invest or give some money for our own Canadian production. Is there anything you can do to convince them or urge them to change that?

**Ms. Terry Smith:** We may be able to change policy. You should know that we work very closely with the federal government and the federal government's programs. Telefilm, for example, also supports film develop-

ment in Canada, so our tax credits and their tax credits merge together.

I think it's more finding new partnerships and new ways of working in order to increase that. We would love to say that, yes, we would like to have more money for our cultural industries and new programs. We know that's very, very difficult in these days, so we're looking at other ways to increase the industry's ability to improve their numbers.

**Mr. Andersen:** Maybe I could also answer your question from the perspective of our ministry, the Ministry of Finance. Content development is important because it actually leads to economic development. We're certainly looking to grow as many businesses as possible, especially those that have some export potential like these do. In terms of the announcement back in December, for example, about the changes to the two tax credits, just to put it a little bit in perspective, it's \$48 million in those two tax credits, so that's a pretty significant support to an industry that's seen as one of the cultural industries or as one of the greatest potential areas for the economy.

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**Mr. Marchese:** No question. I'm very supportive.

With respect to UNESCO and your submission or Canada's submission to it vis-à-vis culture, have you produced a paper yourself?

**Ms. Terry Smith:** No, we haven't. We input into the federal paper.

**Mr. Marchese:** "Input" meaning you're there, you give advice, you—

**Ms. Terry Smith:** We comment on it, we give them advice and, yes, we are going to be sitting at the—well, not at the UNESCO table, but with the federal government, and the Quebec government is very active. We are now a part of that.

**Mr. Marchese:** How would you describe your relationship, all three organizations?

**Mr. Andersen:** Great. We see each other all the time.

**Mr. Marchese:** Isn't that beautiful? So there is cross-communication, collaboration? Isn't that beautiful?

**Ms. Terry Smith:** You should know as well that there is a formal committee that meets on a regular basis, of finance, culture and the OMDC, to review the policies, the MOU and the tax credits. That does happen.

**The Vice-Chair:** We'll move back to Ms. Smith.

**Ms. Monique Smith:** On the question of cultural diversity, are you affiliated with the association for cultural diversity, the organization that comes out of Quebec and—

**Ms. Terry Smith:** Yes, we are. We're actually going to be having a forum in Ontario on this very issue, to raise awareness within Ontario on the issue.

**Ms. Monique Smith:** I just want to go back to the tax credits and the flexibility within the tax credit program. I understand that the call went out in the fall with respect to film and television and that we were able to respond. But on a micro-level, with respect to the actual requirements around tax credits, do you have any flexibility to change those requirements? What is the process for changing?

My question really stems from the books again and the fact that one of our printers is going out of business in Ontario. Right now, our requirement is that the books be printed in Ontario as opposed to printed in Canada. I know that's a concern for publishers because it really limits their ability to access the credit if we're only allowing it for certain types of books, and again, if there aren't the printers in the province, that's a problem. Is there some flexibility and is there any consideration of an amendment around that particular requirement at this point?

**Mr. Andersen:** Well, every year, as part of the pre-budget consultations, we hear submissions from a wide variety of sectors, and the cultural industries, like others, come forward with their suggestions for the Minister of Finance to consider. Most of the credit changes require a legislative change, so generally that's the mechanism by which that updating would happen. The Minister of Finance, as part of putting together the budget, looks at the overall fiscal situation, the economic strategy, and takes those into consideration in trying to decide where to make changes on a year-by-year basis. So sometimes changes are made, sometimes not. It depends on the economic circumstances, the sectoral circumstances of the day.

**The Vice-Chair:** Mr. Zimmer?

**Mr. Zimmer:** Just briefly, the scheme, as I understand it, is that the Ministry of Culture does the policy advice and certification on the applications and the Ministry of Finance processes the application, audits it, gets the money out and so forth and so on. Is there a marketing component to the program, that is, an active marketing program rather than a passive program? By passive, I mean that you've got the system set up, and do you just leave it to the entrepreneurs to dig out the program and apply, or does culture go out and seek applications and promote it?

**Mr. Frappier:** Number one, as I said before, we do a lot of outreach in terms of promoting the tax credit, but over and above the tax credit, we have a series of marketing programs that we developed in co-operation with the industry to help them market their products. We have programs that will allow various sectors to go to book fairs or music fairs or television markets so they can, hopefully, market their products. Those have been very successful in terms of what we do. Similarly, last January, the OMDC opened up an office in LA with two full-time people. We did that as a joint venture with the city of Toronto Film Office and the association Film Ontario. With the two full-time people, we have people in front of our potential clients on a daily basis. We can report that well over \$100 million of new production has come to Ontario because of the office we have in LA.

Similarly, we've done missions with the music industry in co-operation with Trade Routes. Very recently, the deputy minister and I talked to an executive at Sony who reported that because of that mission, \$1 million worth of new contracts had been awarded to Ontario-owned music publishers.

So we have a series of marketing programs that help us.

**Mr. Zimmer:** Can you give me a sense of whether you think there could be more done on the marketing side, or do you feel it's adequate? In the insurance business, for instance, the idea is to get lots of salesmen out there selling policies to generate the income—that sort of metaphor.

**Mr. Frappier:** As my colleague Mr. Andersen said, every year the industries come forward with some recommendations on what we could do if we had more dollars. Of course, we're all waiting to see the new budget. Obviously, when we compare what Ontario's doing to what other jurisdictions are doing—especially Quebec, which has put forward a sizable budget for marketing their industry, not only in Quebec but abroad—we do lag behind. Therefore, yes, absolutely, we could do with some added marketing dollars.

**Mr. Zimmer:** What's the lag? How far do we lag behind Quebec, or British Columbia, for that matter, or the other provinces—our direct competitors?

**Mr. Frappier:** In the film industry, I would say that Ontario, Quebec and BC are pretty well nose to nose, depending on the given year. I think Ontario will move forward this year. I think the impact of the increased tax credit has made a big difference. That, plus the infrastructure we have in Ontario, I believe, will show some serious results. But in terms of other marketing support, BC has some music and new media support, and Manitoba has as well, but Quebec has a program with sizable budgets for every one of their sectors.

**Mr. Zimmer:** But can you give me some objective idea about how our marketing program compares to Quebec's or some of the other provinces' that we lag behind?

**Mr. Frappier:** I happen to think that we pale in comparison to Quebec, basically.

**Mr. Zimmer:** Can you attach some figure? What does "pale" mean?

**Ms. Terry Smith:** About 50% in their programs. They have a lot more programming dollars to give to the industries. Where we provide only tax credits and very small program dollars, Quebec actually has a large pot of money to allow them to have more development programs up front, to help the industries in the initial development of their products, and in marketing. We estimate about 50%, but we'd be happy to give you an exact figure.

**Mr. Zimmer:** Yes, could you give me what that 50% represents in a dollar value?

**Ms. Terry Smith:** Yes.

**Mr. Zimmer:** Thank you, Madam Chair.

**The Vice-Chair:** Any further questions or comments? Then I'm going to take the liberty as the Chair to ask a question.

When you are looking at the risk assessment process of the applications, particularly in the area of writing up certificates, I wanted to know if there's an obvious response within those applying to understand the kinds of commitments required, and whether you can safely say

that the number of applicants who fall into a higher-risk category is decreasing or, because you're reaching new audiences in terms of the program, would it remain about the same?

**Mr. Frappier:** Our point of view is that with more knowledge—the more outreach we do, we believe that the people who apply to us have that increased knowledge, and as such, the risk is lowered.

**The Vice-Chair:** Which obviously is a good message for going forward, if people are better informed and reduce that possibility for you.

Seeing no further questions, I want to thank all of you for coming here today. We certainly appreciate that you were able to come and provide the information. Thank you very much.

*The committee continued in closed session at 1050.*





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Ministry of Culture

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Ms. Gina Vanni, acting director, tax credits and financing programs group

Ontario Media Development Corp.

Mr. Michel Frappier, CEO

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