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HOW TO TESTIFY BEFORE CONGRESS



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THE INDUSTRIAL COLLEGE OF THE ARMED FORCES

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FULFILLMENT OF THE RESEARCH

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**ABSTRACT OF STUDENT RESEARCH REPORT
INDUSTRIAL COLLEGE OF THE ARMED FORCES**

NAME OF RESEARCHER (S) 16 Students: See Title Page	TITLE OF REPORT How to Testify Before Congress
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ABSTRACT

Problem Statement: Each year, the Department of Defense sends scores of both military and civilian witnesses to testify before congressional committees. The quality and responsiveness of their individual presentations influence the nature of the congressional guidance and the amount of money provided to the DoD to accomplish its mission. There is very little written about how to testify. The purpose of this project is to determine if there are well defined lessons which can be learned about how to testify before congressional committees.

Conclusions:

1. Testimony must vary depending upon the character and mission of a given committee.
2. Hearings tend to be public media events, but the presentations by witnesses can substantially influence the decision-making process.
3. The legislative liaison personnel are extremely important in helping witnesses prepare for the hearing. These personnel are not formally trained, they are rotated too frequently, and often times ignored.

Recommendations:

1. A formal short course outlining the congressional committee system, and the decision-making process should be provided to senior Department of Defense personnel.
2. Legislative liaison personnel should be trained prior to their assignment, and maintained for at least a four year tour of duty.

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EXECUTIVE SUMMARY

Testifying before congressional committees is a major activity for many members of the Department of Defense. But there is little written which would provide helpful information to new witnesses. This is the case because of the different committees involved and the changing dynamics of the process. This Mobilization Studies Project was created to provide experiential learning for selected Industrial College of the Armed Forces students about how the process works, and how one might get ready for their first command performance in front of a congressional committee.

The substance of this report contains the result of the efforts of four teams that were constructed from the sixteen students who elected to participate. The teams were divided by Service, and one which specialized with interviews from the personnel in the Office of the Secretary of Defense. The scope of the project was to interview senior Department of Defense personnel, Members of the House and Senate, and congressional staff to determine what helpful advice might be appropriate to give to new witnesses who have been selected to testify for the first time. The four lists of observations provide a flavor for the kinds of concerns and activities that are engaged in during congressional testimony.

It is important to point out from the beginning that successful strategies vary from one committee to another. Each of the various

committees have a character and personality of their own. There are also three basic processes which are separate in themselves, but occurring at the same time. The first major process is the congressional budget process which surrounds the two budget committees. These committees were created in 1974 to balance revenue against expenditures. This has never really happened, but the budget committee have gained additional power in the last few years. The Reagan Administration elected to use the reconciliation process within the 1974 Budget Act to attempt to balance expenditures. This dramatically changed the power struggle among the committees, because the committees of jurisdiction were not forced to live by the allocations provided in the budget process. Then this occurred, the budget committees became more program oriented, and more powerful. While testimony before the budget committees is limited it is important. These committees tend to be macro oriented, but can impact programs directly. The next process is the authorization procedure. These two committees are responsible for selecting programs to meet the overall strategy and threat. They tend to be advocates for programs, particularly if they are built in a given Member's district or state. Testimony before these two committees involves very detailed questions about the various programs and how they relate to the nation's defense strategy. The third process is the appropriations procedure. These two committees actually control the expenditure of funds for given programs. The general rule is that they cannot add money for programs that are not yet authorized, but they can reduce funds for programs which are authorized.

Testimony before either of the two Appropriations Defense Sub Committee is usually typified by an confrontational encounter. While district and state interests play a role, the Members generally view their role as the watch dog of the federal purse. They tend to question every expenditure in great detail.

It is extremely important to know the role and character of the committee before one's appearance. The congressional liaison people are specially trained. It is their job to know the Members and their staffs, and to collect information to help witnesses.

This report contains the observations of several high ranking Department of defense officials, Members of Congress, and congressional staff. The comments were candid and off the record. They are reported in that manner.

HOW TO TESTIFY BEFORE CONGRESS

Introduction

Purpose:

Congressional testimony is an important and vital part of the Washington D.C., decision-making process. There is very little written about how to testify before a congressional committee, because of the many variables which are involved, and the uniqueness of each given session. Successful testimony from the standpoint of the witness is a function of the material to be presented, the politics which surrounds the issues, the personality and expertise of the witness, and the dynamics of the Members and staff which comprise the committee. It is also important to note that the roles of different committees vary considerably. For example, the broad brush approach of the House and Senate Budget Committees is much different than the line item approach fostered by the House and Senate Appropriations Committees. In other words, successful presentations before one committee would not be successful with other committees.

The purpose of this Mobilization Studies Project was to provide an important learning experience for the team members

with regard to the congressional decision-making process. It was clear from the beginning that it would be difficult to conduct formal research that would be meaningful in a dynamic and fluid congressional environment. The purpose was therefore an attempt to capture a snap-shot of the congressional decision-making process, and to learn from the experiences of senior Department of Defense officials, Members of Congress, and Congressional Staff. The task was then to develop a series of questions designed to learn more about congressional testimony. These questionnaires were then used as a basis for an extensive series of interviews. The purpose was to have open ended interviews with people who are skilled and experienced in congressional decision-making process.

Study Design:

This Mobilization Study Project consisted of sixteen students from the Industrial College of the Armed Forces. Because of its size, the team was divided into four smaller groups which were assigned to each of the Services, and to the Office of the Secretary of Defense. A questionnaire was developed to ascertain the various elements of the congressional testimony process. It actually consisted of three slightly different questionnaires which were worded for Department of Defense officials, Members of the House and Senate, and for Congressional Staff. Lists were then developed for those individuals who would

actually be interviewed, and those who would be mailed the questionnaire. The questionnaires were distributed to the various congressional liaison functions in the Services and to the Office of the Secretary of Defense for validation. The questionnaires were then finalized and a cover letter prepared for mailing. At this point, it was determined that the Office of the Secretary of Defense would not allow the use of questionnaires that had not been approved a year in advance. This determination substantially changed the character of the research. The decision at this point was to not attempt a formal statistical look at the congressional testimony process, but instead to continue the open ended interviews. The final product which is contained in this paper is a listing of the major points that the teams identified during their extensive interviews.

CHAPTER ONE

Secretary of Defense Team

Overview:

This team was assigned to interview personnel assigned to the Office of the Secretary of Defense, and then to interview Members and congressional staff. These observations are combined.

Observations:

1. Be as completely familiar with the subject as possible. If the witness is uncomfortable with his/her depth of knowledge, then an expert backup witness should be selected to accompany the main witness. The backup witnesses should be carefully instructed and rehearsed in the manner in which the support should be provided.
2. Understand the character and purpose of the particular committee that has requested your appearance. The roles and missions of each committee are different. For example, the Armed Services Committees will want to know why something is needed, and how it fits into the overall strategy. The Appropriations Committees are generally interested in more detail and the cost implications. Witnesses for the Armed Services Committees should be selected because of their operational and technical expertise. Witnesses for the Appropriations Committees should be selected because of their detailed knowledge and budget implications.

3. Provide a written statement that clearly justifies the proposed program or system. These statements should be short (about 2 to 4 pages) and concise. If necessary, attachments can be used to elaborate on complex issues. The prepared statement should not be read. The opening statement should highlight and emphasize the most important points and key issues contained in the written statement. The witness should not assume that a prepared statement will be read prior to the hearing. Most Members do not even read the final written report. The witness should not over estimate the knowledge of the Members. Opening remarks should be mostly conversational in tone, and establish the witness as a professional expert who is ready, willing, and able to provide the kind of information that the Members will need to make intelligent decisions. It is recommended that the witness be candid and should not hesitate to take on the contentious issues during even the opening remarks.

4. Prudent usage of audio/visual aids can enhance the clarity and understanding of a presentation, and are generally welcomed by the Members.

5. The personalities of the various committee Members are important. The witness needs to know how individuals

ask questions, and what kind of answers are expected. It is also important to know the programs that each Member supports or opposes. The legislative liaison people should be able to provide this information. A briefing from these people prior to the session is extremely important.

6. During the hearing, the witness should be forthright and not intimidated by the Members or staff. If asked for a personal opinion, it should be provided with the clear understanding that it is a "personal" opinion.

7. It may not be possible to answer all questions during the actual hearing. The witness should insure that the questions are provided for the record, and a copy sent to the Member who asked the question.

8. It is important that a witness understand that it may be three to ten months before the committee will take action on the information provided in the hearing. If information changes before the final "mark-up", it is extremely important that the new information be provided to the committee. If an individual Member showed some special interest, then a direct communication is in order via a letter or a personal visit.

CHAPTER TWO

Department of the Army Team

Overview:

This team was assigned to interview personnel within the Department of the Army, and then Members and congressional staff. These observations are in two parts. The first part contains observations from eight general officers and the Under Secretary of the Army. The second part are observations from twenty-three Members of the House of Representatives.

Observations:

1. Be prepared for a rude and brutal experience, and definitely a war game, rehearse your testimony. Use a TV monitor to see how you look, when you answer the questions. Over train for the hearing. Do not let the war game atmosphere upset you. Be prepared to answer the same question many times, as Members walk in and out, talk to one another, read the paper, etc.
2. Read the relevant GAO reports. Remember that the GAO is political. GAO is biased, and the reports may not help your case, if the committee is hostile.
3. Many under the table questions are provided by contractors in competition with other contractors. It helps if you can get the questions in advance from both sides.

4. If you remember additional facts concerning a question that was asked, it is extremely important to make these additional points while you are still in the hearing. Testimony on the record is twice as effective as testimony submitted for the record at a later date.

5. It helps to arrive at the hearing room early, and to get mentally prepared in the hearing room surroundings.

It is important to be available after the hearing for those Members who are really interested and want more information.

7. Use the phrase "that's a good question" whenever possible and appropriate to the situation. It makes the staffer who wrote it look good. Never attack the staff in the hearing.

8. Commanders from the field have a lot of credibility on the Hill. Military based in Washington, D.C., are sometimes viewed as bureaucrats. Lower grade officers and enlisted personnel are also well received by congressional personnel.

9. A Member of Congress has three kinds of pet rocks:

- a. Those that affect his constituency.
- b. Those that help to get votes.
- c. Those that get personal recognition in the press.

10. It is sometimes useful to send the legislative liaison people to the Hill after the hearing to identify follow on questions.

11. Budget and Authorization hearings tend to let you lay out the full Army position, but investigative hearings usually have a bias which can override fairness.

12. While it is important to use the advice of the legislative liaison personnel to the maximum extent, it is also important to seek the opinions of the Chief of Staff, Vice Chief of Staff, Secretary of the Army, and the appropriate Deputy Secretary of the Army.

13. In a public hearing always remember that what you say and how you say it can influence public opinion in spite of the committee bias against you.

14. A mistake that many generals make is that they prepare for the hearing in great detail, but when they testify they tend to over-simplify. This irritates those Members who are looking for more substance.

15. Always send the expert. It is a mistake to "Pump-up" a more senior officer when for example the program manager is available.

16. It is important to know your audience when testifying. This is particularly relevant when you are offering off-setting programs which may have Member interest.

17. Even though RDT&E and Procurement have strong lobbies, many general officer witnesses do poorly because they fail to tie their proposed systems into the total Army big picture. Some witnesses make the mistake of trying to "snow" the committee with technical jargon, or over simplifications.

18. When possible it is a good idea to answer the questions of the committee staff prior to the hearing. You should also attempt to resolve conflict in advance. Remember that the staff write the questions.

19. If for some reason you give an incorrect answer by accident, a personal call or visit is in order to the Member or the staffer to correct it.

The following are suggestions that were made regarding testimony before congressional committees by twenty-three Members or staffers. This is the second part of the list compiled by the Department of the Army team.

1. Always look at previous testimony on your subject before the committee.
2. Be aware that there may be purposeful attempts to embarrass you if it will get press coverage and headlines.
3. Research the Members previous accomplishments with regard to military programs. Give the Member credit during the hearing if at all possible. This will reflect favorably on the staff, particularly the personal staff.
4. If a Member asks you a question, and then begins talking to someone else, the witness should stop talking and wait for the Member's attention.
5. It is extremely important that the Budget and Legislative Liaison coordinate what is presented to the Congress.
6. The Army needs a school for their congressional liaison personnel as the turnover is too frequent. Longer tours with trained personnel would be very helpful.

7. Do not start with the first law of physics, and lead up to what you want to do. State what you want up front, then develop why if time or questions allow it.

8. Testifiers should be aware of the political implications of their testimony.

9. It is acceptable for the primary witness to let backup witnesses answer questions of a technical nature. The backup witnesses should be noted on the witness list.

10. The witness should try to get to know the Members before the hearing if possible.

11. You should state your personal and professional opinion only when it is asked. You should answer honestly and then restate the agency's position.

12. Advance copies should be sent of all witness statements. The statements should not contain political comments.

13. Candor, honesty, and courage are always respected. If a Member is rude or disrespectful, tell him tactfully and he will respect you.

14. Members rely on the staff to frame and orchestrate the hearing. You should always get to know the staffers before the hearing. The Army does not cultivate staffers to the same degree as accomplished by the Navy and Air Force. The Secretary and Under Secretary invite them for breakfast. Most staffers will tell you generally what will be asked at the hearing, although there are some who will make a game out of surprise questions. Briefings for staffers on the general subject area prior to the hearing is helpful.

15. Military witnesses tend to take too much time with "boiler plate" and stock, and over-simplified statements.

16. Talk to the Member who is asking the question. Do not grandstand.

17. Personnel and O&M programs are more difficult to sell because they do not have a strong lobby like the RDT&E and Procurement Accounts. For this reason, Army generals should give special attention to these areas.

18. Some Members will say things that they do not necessarily believe just for the shock effect.

19. The use of backup witnesses for technical answers is a good practice. Staffers interviewed commented that too many uniforms in the room make the Members wonder about who is left doing work in the Pentagon, the quality of internal communication, and about the credibility of the witness.

20. Most Members have programs in which they have a personal interest. It is important to know what those programs are prior to the hearing.

21. Members are constantly looking for differences of opinion within the military. These differences will be exploited when they are identified. They also take offense when the military gives more information to the press than to the Members.

22. Do not read statements. Witnesses should talk to the members directly. Recommend that point or talking papers be used in lieu of reading formal statements.

23. It is important to be yourself. Use of humor is not recommended unless it is natural for the witness.

24. On occasion, questions are asked for which the answer is well known to the Member. This is done to judge the witness's responsiveness and honesty. For this reason, it is important not to guess or talk around the issues.

25. There is an impression that the Department of Defense officials do not listen to their liaison officers located on the Hill. The liaison officers are generally told what is needed at a given hearing, but the witnesses often times ignore the instructions.

26. Senate hearings have changed in the last two years, and the Department of Defense has yet to respond appropriately. Hearings in the past were broad and general, but now the committees are looking for more justification and detail.

27. Senate staffers are less likely to accept visits, or invitation to prebriefings than the staffers in the House.

28. The Budget Justification Books that are provided to the Senate Appropriations Committee is considered inadequate. The books contain too much "boiler plate" and not enough detail. The Committee would like more information on the new and more sensitive programs, and less on the ongoing programs.

29. Statements which are too detailed are just as bad as those which are too general. Every issue has shades of grey. Witnesses should know about the grey areas, and be prepared to talk about them. Overstatement of the case is damaging to the credibility of the witness. The mix of technical to simplified presentations is difficult because the staffers want to hear it, but the Members will become frustrated because they do not understand it.

30. It is sometimes to the military's advantage to try to slip something by the committees. If you attempt this, you must make sure that the witness is aware of what he is doing, and be prepared if he or she gets caught.

31. War game your testimony with as many "devils advocates" as possible.

32. Putting your backup witnesses at the same table as the primary witnesses is a good move. It prevents the primary witnesses from having to turn his or her back to the committee, and allows the backups to speak when they are needed.

33. Members are very sensitive to criticism in the Army, Navy, and Air Force Times. They read it and can react violently in a hearing. The witness should know what the Times has said about his program. It is also a good idea to read the current newspaper and trade materials prior to the hearing. There have been a great deal of questions that have come from the morning paper.

CHAPTER THREE

Department of the Navy Team

Overview:

This team was assigned to interview personnel within the Department of the Navy, and then Members and congressional staff.

General Comments:

The congressional hearing process has developed through the years into an institution within our legislative decision-making process. At times it has been considered an extremely significant practice which assists our legislators in gathering substantive information. At other times, it has been criticized as an event staged to achieve bipartisan political gains at the expense of the witnesses. Regardless, the end result of a congressional hearing has always been the same: to provide an official record regarding specific issues and to facilitate law making. To these ends the following six consolidated observations are provided.

Observations:

1. A hearing is a political event and this fact must be fully understood. In our political system, legislation is a function of compromise. Some legislators are less concerned with the content of the testimony than with the opportunity to ask questions that have relevancy to themselves and their constituencies. Thus, when preparing testimony it is imperative to know something about the other side of the case one is presenting, as both

friendly and unfriendly questions are likely to be asked.

2. Always review the prior year's testimony. Use the previous testimony as a starting point to update Congress on what has been accomplished since the last hearing, what problems have been encountered, and what the future holds.

3. Testimony should always be tied to national security interest or to a specific threat. All too frequent, the link between a military program and its need is vague. Witnesses need to articulate clearly when a particular position relative to a specific issue is essential.

4. A formal statement is required, and is submitted for the record. An oral summary of this statement is preferred rather than merely reading the document. Visual aids are not recommended as they tend to be distracting and require logistical support which may not be available. The most effective witnesses are those who articulate their positions clearly and extemporaneously, and who limit their responses to short answers that highlight key points.

5. The use of backups is a personal preference. If they facilitate the hearing process by rendering a prompt expert analysis of the question rather than statements for the record, they are encouraged. However, the use of large numbers of expert backups diminishes the credibility and effectiveness of the primary witness.

6. Be prepared to give your personal assessment on all matters associated with your testimony when you are asked. Arrogance and talking down to the Members and staff is viewed negatively. Forthrightness and honesty on the other hand foster credibility, and are the secret to successful testimony.

CHAPTER FOUR

Department of the Air Force Team

Overview:

This team was assigned to interview personnel within the Department of the Air Force, and then Members and congressional staff.

Observations:

1. It is important to know how the legislative process works from the viewpoint of the congressmen. Successful testimony must fit the congressional decision-making cycle. Congress, because of the political process makes changes at the margin with occasional wide sweeping shifts. There is limited interaction among the various committees. There are large time lags between the gathering of information and the actual decision-making. Congress is becoming more and more involved in the every day detailed decision-making process of the federal government.
2. The witness must know the audience. It is the committee's show. There are major differences between the House and Senate. Each committee has a special purpose and unique personality. The role and character of the chairman molds the personality of the committee. There are often times competing individual

interests between the Members of a given committee. The staffers can play a powerful role. They have the time to understand the details of the problem, are acutely aware of the politics, and can mold issues to gain power for themselves. They can have many sources of information within the Department of Defense. There are fewer and fewer Members and staff who have actual experience in the military. This can have important implications for the future.

3. It is important to recognize that the act of testifying is much like a theater performance. It is easy to lose credibility which may be impossible to regain. The hearing provides the Members with the opportunity to "flush out" issues, and evaluate witnesses. The use of examples and illustrations is encouraged. Answers should be short and to the point. Each witness should be concerned about over kill. Know when to stop. Witnesses from the Department of Defense should avoid crowds of backup witnesses. Never evade a clear answer to a direct question. Foster interaction whenever possible. If attacked, stand firm. The badgering may gain you sympathy from the other members. The best advice is to think before you answer.

4. It is important to do your homework prior to the hearing. If possible get to know the Members and their staff. Use social occasions and installation visits whenever possible to get to know and educate Members and staff. A good witness has a series of network contacts that keep an accurate and fluid information flow.

Summary

Congressional hearings are political events. As political events, the process involves more than the mere presentation of information and answering questions which assist the Members in their decision-making responsibilities. In addition, the roles and missions of the different committees vary considerably. While there are several other committees which can influence Department of Defense programs such as Foreign Affairs and Government Operations, this study was restricted to Budget, Authorization, and Appropriations Committees. The Budget Committees were created in 1974 partly in reaction to President Nixon's impoundments, and partly to Congress's desire to establish a process which more tightly controlled fiscal matters. The Senate Budget Committee tended to be more active in the 1970's because the Senate Members viewed their role differently than their counterparts in the House of Representatives. Department of Defense presentations until 1980 were limited. The real decisions were made in the Authorization and Appropriation Committees. But in 1980, power began to shift in favor of the Budget Committees. This was achieved by the decision to exercise a little understood process called reconciliation. This process, when exercised, forces the other committees to honor the limits imposed by the Budget Committees. Testimony before the House and Senate Budget Committee must by its nature be very broad. However, the exercise of

the reconciliation process has forced both the Budget Committees' Members and Staff to become more interested in programs in order to make the larger budget decisions. Program decisions are still largely made by the Authorization and Appropriations Committees, but witnesses before the Budget Committees should be prepared to answer detailed questions on highly visible programs or those that have special interest to individual Members.

Testimony before the Authorization Committees is also different from the other congressional committees. These two committees are intensely program oriented. While they have to be aware of fiscal priorities, they are less constrained in this regard than the Appropriations Committees. The Authorization Committees tend to be program oriented and advocates. Testimony before these two committees must be detailed, and presented in a manner which relates to the over all strategy and military objectives. There are vested interests on these two committees, which the witnesses should be aware of and prepared for accordingly. The legislative liaison personnel are aware of these interests. There is likely to be a lot of contractor involvement behind the scenes. It would be wise to have individual program managers available as backup and on occasion as primary witnesses.

Testimony before the Appropriations Committees and specifically before the Defense Sub-Committees is dramatically different. It is important to note here that the Budget Committees do not have sub-committees. The Budget Committee in the House has a Defense Task Force, but testimony will notably involve the

full committee. This is not true of the Authorization Committees which have a variety of sub-committees which are organized by special interests. Most of the testimony by Department of Defense personnel will be before the sub-committees. The appropriations Committees generally restrict Department of Defense testimony to the Defense Sub-Committees and full committee testimony is limited to larger posture issues. Most of the testimony will be before the sub-committees. The Appropriations Defense Sub-Committees are dominated by Chairmen. The staff work for the Chairman. The ranking minority Member will have some power but the decision-making will be dominated by the Chairman, the majority Members, and the staff. The minority members can influence specific decisions by getting support from majority Members. This is particularly true when majority Members have vested interests which are shared by the minority Members. It is not uncommon to have a series of deals made between the Members. In addition to the Committee Staff each Member has a staff person which is paid for by the full committee. This person operates out of the immediate office of the Member. While he or she is principally dedicated to defense issues, they are likely to work also on the Members other requirements. They are largely resented by the Committee Staff because the Committee Staff does not like to share its power. Testimony before the Defense Sub-Committees is different because the Members of the Committee on both the majority and the minority

and the minority view their role as that of a watch-dog. One is likely to encounter very detailed and probing questions. The Senate Defense Sub-Committee prior to 1980 played the role of court of last appeal. The House would report out first with a large number of reductions. The Department of Defense would then appeal the cuts to the Senate Members. The resulting compromise would restore many of the programs but not all.

As one can see the territory on Capitol Hill is very different from one committee to another. Perhaps one of the major themes that came from the interviews was that it is important to know the Members and staff of the various committees. It is important to do a lot of homework and to anticipate the kinds of questions that will be asked. It is often times possible to get the questions in advance. If you are lucky enough to get questions in advance, it is considered wise not to read the answers. In fact, it is wise not to read anything including the prepared statement. But regardless of whether one has the questions in advance, it is important to use the legislative liaison people to the maximum extent possible to get intelligence on the hearing and who is likely to be present. The character of the committee hearing can change dramatically depending upon which Members show up.

Testimony before congressional committees is a function of the Members, the role of the Chairman, the role of the staff, the vested interests at stake, and the preparation and personality of the witness. Conditions are constantly changing. Legislative

liaison personnel must establish an intelligence network that is in tune with the flow of issues, and the dynamics of the various personalities and power struggles.

Congressional testimony is not to be taken lightly. Unless the members of the Department of Defense establishment are sensitive to the issues and dynamics, it is likely that the committee markups and reports will contain reductions to budget requests and a whole host of new rules and constraints. It is like a theater presentation, except the actors can charge the audience for more than admission.

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