



October 19, 2007

Robert A. Morin  
Secretary General

Submitted via E-Pass

Canadian Radio-television and Telecommunications Commission  
Ottawa, Ontario K1A 0N2

Dear Mr. Morin,

**Re: Broadcasting Notice of Public Hearing CRTC 2007-10, Review of the Regulatory Frameworks for Broadcasting Distribution Undertakings and Discretionary Programming Services**

1. This is the Writers Guild of Canada's written comments in response to the Commission's Public Notice CRTC 2007-10. **The WGC wishes to appear** at the public hearing to address any questions the Commission may have on the written comments and to provide further insight on the perspective of Canadian screenwriters.
2. The Writers Guild of Canada (the WGC) is the national association representing more than 1,800 screenwriters working in English-language film, television, radio and digital media production in Canada. The WGC is committed to building a vibrant industry showcasing Canadian imagination and talent.
3. As part of the Canadian Coalition of Audio Visual Unions ("CCAUI"), the WGC has submitted its thoughts on many of the questions raised in Public Notice CRTC 2007-10. The WGC is submitting these supplementary comments in addition to its comments as part of the CCAUI.

Genre Exclusivity

4. The Commission has asked the question whether the policy of genre exclusivity for discretionary services still serves its purpose. As stated in the Public Notice, this policy's objectives are to ensure a diversity of programming genres and to provide a measure of support to pay and specialty services. The WGC agrees that the pay and specialty services are a mature and healthy industry however that does not obviate the necessity to maintain these two objectives.
5. Genre exclusivity both protects pay and specialty services from Canadian services in competing genres and competing non-Canadian services. Without genre exclusivity we are at a loss as to how to protect our Canadian discretionary services from competing American services. In order to maintain Canadian choice on the airwaves the Broadcasting Act requires that, for example, we

protect the Canadian service Comedy Network from the U.S. Comedy Central whose financial resources would allow it to dominate the market by prohibiting the licensing of non-Canadian services in the comedy genre. The Canadian channels licence programs from the U.S. services and thus offer the best of that programming to their audience but because of their expenditure requirements and conditions of licence also offer Canadians the choice of Canadian programs that fit the particular licence. No matter how healthy our Canadian broadcasting industry is, it will always need protection from the larger, more financially capable networks to the south. For this reason alone genre exclusivity must be maintained.

6. While it is true that there are many popular, recognized brands that might be able to withstand or prevent competition through market forces, not all brands have been protected by their owners. Channels such as YTV, Space and Food TV have clear branding that has been consistently supported by the nature of its programming. The strong brands have resulted in strong revenues and they are amongst the more successful specialty services. Attempts to expand conditions of licence to more general terms have been carefully watched by the Commission to ensure diversity of programming and this has benefited the various brands. In fact, the children's and youth broadcasters YTV, Teletoon and Family have not only become some of the more successful specialty broadcasters because of their narrow youth-specific conditions of licence but also they have been major factors in Canada's international reputation for children's programming and animation. The volume of Canadian children's programming and animation that they are required to license has sustained the growth of an indigenous children's and animation production industry. Given the lack of children's programming on the conventional networks and particularly CTV and Global, it is essential to Canada's children and youth that genre exclusivity continues to support a strong children's programming industry.
7. Other specialty services have weakened their brand by shifting their format in search of their audience (e.g. Life became Slice and now competes with W) or diluted their brand in order to reduce programming costs. The WGC has some direct experience with the latter situation as it laid a successful complaint with the Commission in regards to History Television's airing of CSI: New York. The WGC notes sadly that Alliance Atlantis Broadcasting is continuing to reduce its programming costs at the expense of its branding by airing CSI and CSI:Miami repeatedly on Showcase, a channel whose conditions of licence refer to the best of drama primarily from Canada and the world outside of the U.S.. By filling their schedule with inappropriate repeats such as the CSI franchise, there is less room for original Canadian programming. No wonder audiences feel like there's 'never anything on'.
8. While we share the Commission's exhaustion from dealing with repeated complaints about violations of nature of service conditions of licence, we do not believe that the solution is to throw out genre exclusivity. The WGC was pleased to see in the Dunbar Laurent Report that it had recommended clear financial penalties for breaching regulations. From our experience with collective agreements we know that only with clear penalties can the Commission hope to

stop the repeated disrespect for the Broadcasting Act and its regulations that is currently occurring.

9. The result of the current blatant disregard of their conditions of licence by some broadcasters is a lack of program diversity on air as these broadcasters seek to lower their costs, and increase profits to their shareholders, by airing the same programs repeatedly over multiple services owned within the same station group, regardless of the conditions of licence. This is how the CSI franchise ends up on History Television and Showcase, Canadian cooking show Surreal Gourmet ends up on BBC Canada as well as Food TV and Till Debt Do Us Part can be found on Slice, HGTV and BBC Canada to name but a few examples. While this helps the station group keep its programming costs down it is the viewing audience and the subscribers who lose out as they are paying for many channels but only getting the same handful of programs. The Commission's clear concern about programming diversity suggests a strengthening of the genre exclusivity policy rather than abandonment.

#### Programming Obligations

10. The Public Notice questions whether expenditure requirements are still relevant for pay and specialty services to ensure appropriate levels of support for Canadian programming. As the WGC has stated in other proceedings and as part of the CCAU submission, the broadcasters have proven that they will only spend on quality Canadian programming if they are required to do so. To further illustrate the point, we would like to expand on the data submitted in the CCAU submission. At the 2004 specialty television licence renewals the Commission increased expenditure requirements based on profitability. In 2003 it had announced in the Public Notice of the hearing that this was a question that would be considered. It cannot be a coincidence then that in 2003 one-hour dramas licensed by specialty services went from 0 to 19 hours. Prior to that date discretionary services were licensing only half hour programs and primarily youth programming meant for YTV or Family Channel. Conditions of licence required the children's channels to spend more on Canadian children's programming. The balance of specialty services had less restrictive conditions of licence such that, for example, prior to 2003 Showcase only licensed sixteen half hours of Canadian drama (the series Bliss). In 2003 its expenditure expanded to 31 half hours consisting of three different series. In each year since 2003 Showcase has consistently licensed three or four half hour drama series each year and been a major catalyst for Canadian half hour drama.
11. From these statistics and those on one-hour drama found in the CCAU submission, it is clear to the WGC that discretionary services only spend money on Canadian drama if either a) they are required to do so by a restrictive condition of licence that limits the amount of non-Canadian programming they can air or b) they have an expenditure requirement. As it would not be appropriate to narrow conditions of licence in many cases the lighter regulatory burden would be to maintain the existing expenditure requirements that links expenditure to profit. When channels are less profitable, as is the case for many

Category 2 services, they are granted the flexibility to spend less money on Canadian programming.

12. To conclude, the WGC strongly supports the existing regulatory framework that encourages the creation and exhibition of Canadian programming, and particularly drama, and urges the Commission to ensure that any contemplated changes to the regulatory framework have no negative impact on the levels of Canadian programming available to Canadian audiences. The WGC would like to appear at the hearing to address any questions the Commission might have.

13. We thank you for this opportunity to provide you with our comments.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Maureen Parker', written in a cursive style.

Maureen Parker  
Executive Director

c.c.: WGC National Council  
Kelly Lynne Ashton, Director Industrial and Policy Research, WGC

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