



November 5, 2015

**Filed Electronically**

Mr. John Traversy  
Secretary General  
Canadian Radio-television and  
Telecommunications Commission  
Ottawa, Ontario  
K1A 0N2

Dear Mr. Traversy:

**Re: Broadcasting Notice of Consultation CRTC 2015-421**

**A review of the policy framework for local and community television programming**

1. This a joint submission in the above-noted matter from the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA), the Canadian Media Production Association (CMPA), The Directors Guild of Canada (DGC) and the Writers Guild of Canada (WGC) (collectively, “the Group”).
2. The Group wishes to appear at the hearing scheduled to begin 25 January 2016 to speak to this intervention.
3. The Group supports the common elements of the Commission’s regulatory approach to local and community programming, namely the encouragement of locally relevant programming, diversity of voices and perspectives, and production by members of the local community or market. The Group also supports the outcomes the Commission seeks to achieve with this review, which are:
  - Canadians have access to locally produced and locally reflective programming in a multi-platform environment;
  - Both professional and non-professional independent producers<sup>1</sup> and community members have access to the broadcasting system; and

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<sup>1</sup> In this respect, the Group wishes to acknowledge and support the efforts of the IPTV BDUs to use local professional and non-professional independent producers to supply programming for their VOD community channels.

- Locally relevant news and information programming is produced and exhibited within the Canadian broadcasting system.

4. In the remainder of this submission, the comments of the Group focus primarily on the allocation of contributions from broadcasting distribution undertakings (“BDUs”) between local expression, the Canada Media Fund (“CMF”), and the Certified Independent Production Funds (“CIPFs”). These matters are raised by the Commission in Broadcasting Notice of Consultation CRTC 2015-421 (“the Notice”) at Questions 9 and 19.

**Q9. How should funding for locally relevant and locally reflective programming be allocated from the various existing funding sources to ensure the continued presence of this programming in the Canadian broadcasting system as a whole?**

**Q19. How should funding for community access programming be allocated from the various existing funding sources to ensure the continued presence of this programming in the Canadian broadcasting system as a whole?**

5. As the Commission re-affirmed in the Notice in reference to the current levels of funding for community channels (from regulated BDU contributions) and for local programming on commercial conventional television stations (from advertising revenues and the Small Market Local Production Fund), “there is sufficient funding within the system to ensure the creation of locally relevant and reflective programming.”<sup>2</sup> We therefore read the Commission’s questions Q9 and Q19 as asking whether the current amount of funding flowing to local programming on commercial conventional television stations and community access programming should be re-allocated as between those types of programming/programming sources and, if so, how.
6. In that respect, we understand that the Commission is not contemplating re-allocating the split in the BDUs’ regulated contributions as between community access programming and the CMF and/or CIPFs in order to increase the former at the expense of the latter.
7. We would certainly oppose any proposal to re-allocate the BDUs’ regulated contributions in any manner that would reduce the share to be allocated to the CMF and/or CIPFs.
8. In Broadcasting Regulatory Policy CRTC 2015-86<sup>3</sup> (“BRP 2015-86”), the Commission stated:

Canadians have been clear throughout the Let’s Talk TV proceeding that they expect content of high quality from their television system. The creation of compelling high-quality productions by Canadians requires, among other things, financial investment. Investment in content of high quality that is widely available and well-promoted drives viewing and

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<sup>2</sup> The Notice, at par. 18.

<sup>3</sup> <http://www.crtc.gc.ca/eng/archive/2015/2015-86.htm>.

thereby generates revenues. These revenues can then be reinvested in producing future content.<sup>4</sup>

9. As the Commission observed in BRP 2015-86, “[f]inancial support is required to ensure that the necessary resources are available in order for Canadians to create a diversity of programming”<sup>5</sup> and that a significant portion of that financial support – more than \$1.4 billion between 2010 and 2014 – comes from the CMF. Moreover, as the Commission acknowledged, each \$1 of funding provided by the CMF results in \$3.38 towards the creation of Canadian programming, with the result that the CMF contributions over the 2010-2014 period triggering a total of \$4.8 billion in production of Canadian content.<sup>6</sup> The Commission also noted in BRP 2015-86 that, according to the CMF’s 2013-2014 annual report, 26% of the production budgets in the English-language market for programs funded by the CMF came from the CMF itself; in the French-language market, that number was 27%.<sup>7</sup>
10. We share the Commission’s goal of fostering “a robust Canadian production sector that is better able to offer compelling high-quality content to Canadians and to global markets.”<sup>8</sup> To that end, we wholeheartedly agree with the Commission that the financial contributions to the creative sector which it mandates through the CMF and other independent production funds “are key to cultivating a strong Canadian production sector.”<sup>9</sup>
11. For these reasons, re-allocating any portion of the BDUs’ current contributions away from the CMF (or CIPFs) would be counter-productive, would be harmful to the system, and would undermine the Commission’s objectives as outlined in BRP 2015-86.
12. It appears the Commission shares our view in this respect, as evidenced by its recent decisions respecting applications by BDUs to re-allocate a portion of their required CMF contributions to new proposed official minority language community channels.
13. In Broadcasting Decision CRTC 2015-32<sup>10</sup>, the Commission denied an application by Videotron to double its “local expression” contribution in Montreal from 2% to 4% in order to add an English-language community television service. A reason for doing so was that the Commission was concerned with the impact of Videotron’s application on the CMF and the programming the CMF supports:

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<sup>4</sup> Ibid., at par. 213.

<sup>5</sup> Ibid., at par. 22.

<sup>6</sup> Ibid., at par. 27.

<sup>7</sup> Ibid., at par. 29.

<sup>8</sup> Ibid., at par. 116.

<sup>9</sup> Ibid., at par. 107.

<sup>10</sup> <http://www.crtc.gc.ca/eng/archive/2015/2015-32.htm>.

...according to the CMF's 2013-2014 annual report, each dollar spent by the fund generated \$3.33 of production activity. Thus, by way of example, approval of Videotron's application for additional funding would result in a loss of production activity equal to more than four times the amount spent to produce one season of the detective TV series 19-2. The Commission is therefore worried that approval of the application as filed would lead to the reallocation of a considerable sum of money at the expense of Canadian programming of more general interest - this sum would otherwise be directed to the CMF (at least 80%) and other certified independent funds (up to 20%) for the production of Canadian programs.<sup>11</sup>

14. In an earlier decision, the Commission denied a similar application by Rogers, for similar reasons:

22. ... when the Commission approved the conditions by which Rogers would fund its second community channels in Moncton and Ottawa, BDU revenues and their associated contributions to Canadian programming were growing. Currently, BDU subscriptions and revenues appear to be peaking and there is evidence that they may decline in the future, which will have an impact on BDU contributions to support the production of Canadian programming.

...

25. On account of the apparent underutilization of the existing community channels and given that redirecting up to an additional \$570,000 per year away from the CMF and other authorized independent funds to the two new proposed community channels reduces the overall financing available for the production of Canadian programming, the Commission doubts whether Rogers' proposal is the most effective in terms of achieving the objectives of the Community television policy and the Act.<sup>12</sup>

15. In light of the above, the Group would strongly oppose any proposal to re-allocate the BDUs' regulated contributions in a way that would reduce the share they are currently required to allocate to the CMF (and CIPFs).

16. In fact, if any re-allocation of current BDU contributions is contemplated, the evidence supports an argument for *increasing* (rather than reducing) the portion to be allocated to the CMF, as the following analysis demonstrates.

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<sup>11</sup> Ibid., at par. 21.

<sup>12</sup> Broadcasting Decision CRTC 2014-204, <http://www.crtc.gc.ca/eng/archive/2014/2014-204.htm>.

17. According to the Commission's Communications Monitoring Report 2015, in 2014, BDUs contributed \$151.6 million to community channels, \$218 million to the CMF, and \$55 million to other independent funds — the CIPFs.<sup>13</sup> The combined contributions to the CMF and the CIPFs were therefore \$273 million that year. The ratio of funding to community channels to the CMF/CIPFs was therefore approximately 1:1.8.
18. Production costs for projects funded by the CMF and the CIPFs are generally higher than production costs for community programming. We believe, in fact, that the costs are many times higher.<sup>14</sup>
19. Moreover, unlike the BDUs' allocations to community programming, their allocations to the CMF have a significant multiplying effect on program funding. The Group understands that community programming is largely, if not entirely, funded by financial contributions from BDU gross broadcasting revenues. We do so in part because the data on community programming provided by the Commission in respect of this proceeding shows a close correlation between the BDU contributions in a given year (\$151.6 million in 2013-2014) and the sum of programming, non-programming, and community outreach expenses in the same year (\$150.4 million). Funding from the CMF, however, triggers spending by other entities, such as broadcasters, government, and private financiers. As noted above, the Commission has recognized that each

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<sup>13</sup> Figure 4.3.9.

<sup>14</sup> Unfortunately, the publicly available data provided by the Commission is frankly not clear to us on this point. For example, according to the data on community programming provided by the Commission in respect of this proceeding (Community Programming Data – Public Hearing of 25 January 2016, Ottawa, 14 September 2015: [http://www.crtc.gc.ca/Broadcast/eng/HEARINGS/2015/2015\\_421b.htm?\\_ga=1.18209466.287290961.137649995](http://www.crtc.gc.ca/Broadcast/eng/HEARINGS/2015/2015_421b.htm?_ga=1.18209466.287290961.137649995)), in 2013-2014 the "Average programming hours produced per reporting unit" was 12,512 hours for both access and licensee-produced programming in all market sizes combined. However, this Community Programming Data does not state how many "reporting units" are in the broadcasting system overall, so a system-wide assessment of total hours produced does not seem possible from the data provided. Aggregate Annual Returns filed under Broadcasting Regulatory Policy CRTC 2009-560 (<http://www.crtc.gc.ca/eng/archive/2009/2009-560.htm>) provide data on community programming hours produced and expenses (Aggregated 2014 Broadcasting Distribution Undertakings (BDU) Annual Return Form, Public Version, p. vii, lines 20-26). But our analysis of this data also leaves us with questions. The 2013-2014 annual return for BCE Inc. ([http://www.crtc.gc.ca/public/5040/BCE\\_2014\\_annual\\_return\\_cable\\_public.pdf](http://www.crtc.gc.ca/public/5040/BCE_2014_annual_return_cable_public.pdf)), for instance, lists a total of 2,065 hours produced and related expenses of \$6,359,000 (p. vii, line 26). Dividing the latter by the former suggest an average programming cost of \$3,079 per hour. This same calculation with respect to the annual return of Rogers Communications Inc. ([http://www.crtc.gc.ca/public/5040/Rogers\\_2014%20BDU%20Aggregate%20Return%20-%20PUBLIC\\_revised%20January%202022,%202015.pdf](http://www.crtc.gc.ca/public/5040/Rogers_2014%20BDU%20Aggregate%20Return%20-%20PUBLIC_revised%20January%202022,%202015.pdf)) indicates a per-hour programming cost of just \$88. That of Telus Communications Inc. ([http://www.crtc.gc.ca/public/5040/TELUS%20Optik%20TV\\_2014%20BDU%20Aggregate%20Return\\_1Dec2014\\_AB\\_RIDGED.pdf](http://www.crtc.gc.ca/public/5040/TELUS%20Optik%20TV_2014%20BDU%20Aggregate%20Return_1Dec2014_AB_RIDGED.pdf)) yields a per-hour cost for community programming of \$50,403. It's difficult to understand and interpret these results, in large part because they seem so inconsistent between BDUs. Nevertheless, it does seem clear that CMF- and CIPF-supported programming is generally more expensive. For example, the CMF supported programming with average budgets per hour between \$129,000 (for "Diverse Languages" programming) and \$1.65 million (for English-language drama) (Canada Media Fund 2013-2014 Annual Report, Funding Results→Convergent Stream: <http://ar-ra13-14.cmf-fmc.ca/funding/convergent/>).

dollar spent by the fund generates more than \$3 of production activity. This multiplier effect means that the CMF funds more production activity per funding dollar.

20. We can also look to the relative audiences that the BDUs contributions generate. According to the Communications Monitoring Report 2015, for 2013-2014 community services obtained a 0.3 “Viewing share...for all of Canada, excluding the Quebec francophone market”.<sup>15</sup> Viewing share for the Quebec francophone market for 2013-2014 was 0.2.<sup>16</sup> We do not have access to the CMF’s overall viewing share data, but according to its 2014-2015 Annual Report, in 2013-2014, CMF-funded drama programs achieved an 8% share in the English-language market over the full day while children’s and youth programming achieved a 32% share.<sup>17</sup> For peak hours, these share figures increased to 10% for drama and to 45% for children’s and youth programming.<sup>18</sup> Audience shares for CMF-funded programs are even higher in the French-language market, ranging from 11% for documentary over the full day to 89% for variety and performing arts programming during peak hours.<sup>19</sup>
21. We understand that these numbers measure audiences in comparison to programming in the same CMF-eligible genres, and therefore do not show overall viewing share. We also understand, however, that in any event the share for CMF-funded programs would exceed the 0.2/0.3 share for community programming, likely many times over. If this is correct, not only does CMF-funded programming achieve greater audiences — this is to be expected given budgets, subject matter, distribution and promotion of such programming — but they also generate more audience *per funding dollar* than community programming. In short, while the BDUs’ contributions to the CMF are approximately 1.4 times greater than their contributions to their community channels, the impact of the contributions flowing to the CMF on overall production funding and on audience size is exponentially higher.
22. In the Notice, the Commission stated the following:

The Commission’s long-standing approach to the funding and support of the community channel has relied on BDUs across the country providing both the funds for its operation and the infrastructure to support it. This approach finds its genesis in an era where the costs and complexity involved in producing programming were high and BDUs were, by virtue of their reach, in the best position to help ensure Canadians’ access to the broadcasting system. It has since become easier for Canadians to access the means of production while the complexity involved in creating content has

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<sup>15</sup> Table 4.2.8.

<sup>16</sup> Table 4.2.9.

<sup>17</sup> Canada Media Fund 2014-2015 Annual Report, Successes → Audience Results – Television: [http://ar-ra14-15.cmf-fmc.ca/audience/audience\\_results/](http://ar-ra14-15.cmf-fmc.ca/audience/audience_results/).

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

decreased. Moreover, Canadians now have access to the Canadian broadcasting system in ways they never have before, for example, by uploading their own content on Internet platforms.<sup>20</sup>

23. The Group agrees with that assessment. In 1987, a VHS camcorder cost an average of \$1,646 USD,<sup>21</sup> or over \$4,500 in inflation-adjusted Canadian dollars.<sup>22</sup> Such camcorders recorded in standard-definition analog video, and produced images that were nowhere near the broadcast-quality of the time. The situation with respect to editing was similar:

In 1990, Newtek introduced the Video Toaster, considered the first non-linear editing system. It wasn't long after that that Videomaker [Magazine] began dividing its editing features between tape-to-tape editing and non-linear editing tips. Non-linear was clunky, processor heavy, and expensive; computers were pricey and few people wanted to go that route.<sup>23</sup>

24. Today, such production tools are far more accessible. Video cameras meeting broadcasters' technical specifications<sup>24</sup> can now be purchased for as little as \$2,500.<sup>25</sup> And even less expensive consumer or "prosumer" products are available at a fraction of the cost — DSLR cameras costing less than \$500 can shoot video at full HD (1920x1080)<sup>26</sup> and basic video editing software is available for free on many mid-to-high end personal computers.<sup>27</sup>

25. With regard to distribution, it is common knowledge that anybody with an internet connection can upload video content in a variety of lengths and image resolutions to video-sharing websites such as YouTube, and that this can be done at very low cost, approaching if not actually free. The Commission has determined that online video of this sort forms part of the "broadcasting system" as contemplated by the *Broadcasting Act*<sup>28</sup> and as such is a platform that provides "access" to the system.

26. Given that many households now own basic production tools as a matter of course — i.e. they own a video camera and a personal computer whether or not they regularly produce video

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<sup>20</sup> Par. 34.

<sup>21</sup> "History of Video Now and Then" *Videomaker*, 28 Oct. 2011. Retrieved 23 Oct. 2015:

<http://www.videomaker.com/videonews/2011/10/history-of-video-now-and-then>.

<sup>22</sup> Inflation calculated in U.S. dollars based on exchange rate on 23 Oct. 2015:

[http://www.bls.gov/data/inflation\\_calculator.htm](http://www.bls.gov/data/inflation_calculator.htm).

<sup>23</sup> *Supra*, note 29.

<sup>24</sup> E.g. see Bell Media Technical Requirements for High Definition Programming (No. HD-05.93),

[http://assets.bellmedia.ca.s3.amazonaws.com/uploads/2014/03/Bell\\_Media\\_Technical\\_Specifications.pdf](http://assets.bellmedia.ca.s3.amazonaws.com/uploads/2014/03/Bell_Media_Technical_Specifications.pdf).

<sup>25</sup> E.g. Sony PXW-X70 XDCAM XAVC HD422: <https://www.vistek.ca/store/ProVideoCamcorders/276105/sony-pxwx70-xdcam-xavc-hd422-camcorder.aspx>. Retrieved 27 Oct 2015.

<sup>26</sup> E.g. Nikon D3300, available at henrys.com for \$439.99: <http://www.henrys.com/83396-NIKON-D3300-D-SLR-BODY-BLACK.aspx#prodtabs-3>. Retrieved 27 October 2015.

<sup>27</sup> E.g. Windows Movie Maker: <http://windows.microsoft.com/en-gb/windows/movie-maker>.

<sup>28</sup> Broadcasting Order CRTC 2012-409, <http://www.crtc.gc.ca/eng/archive/2012/2012-409.htm>.

content — many people can be said to be able to access the broadcasting system at very low incremental costs indeed.

27. At the same time, costs of professional programming in underserved genres have not decreased — in many if not all cases they have in fact increased. For example, between 2003-2004 and 2014-2015, average budgets for CMF-funded English-language programs increased in every programming category except one-off variety and performing arts.<sup>29</sup> In the case of one-hour drama series, average budgets increased by 73%, from \$1,108,000 per hour in 2003-2004 to \$1,922,000 per hour in 2014-2015.<sup>30</sup>
28. These increases have occurred largely because professionally-produced content relies as much as ever upon talent and the work of skilled crews. Many high-end professional production tools remain expensive, but more expensive still is the talent and labour required to use the tools effectively. International hits like *Game of Thrones* cost around \$6 million per episode<sup>31</sup>, setting audience expectations ever higher.<sup>32</sup> While such trends have shown themselves more markedly in Hollywood and internationally, we can expect similar effects given that Canadian productions must now compete internationally with that content. In this respect, the budget trends for “community” and professional content, particularly drama, are on two very different trajectories.
29. For these reasons, the Group submits that the share of the BDUs’ funding contributions to the CMF and CIPFs should not be reduced; instead, if a “rebalancing” is to occur, the evidence actually suggests a rebalancing of BDU contributions in favour of the CMF and the CIPFs.

Yours very truly,



**Stephen Waddell**  
**National Executive Director**  
**ACTRA**



**Reynolds Mastin**  
**President and CEO**  
**Canadian Media Production Association**

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<sup>29</sup> “CMPA Proposals for CMF Guideline Changes: Eligible Licence Fees, Thresholds and Other Rights”, November 2, 2015, Appendix “A”. Note that while the document as a whole was created by the CMPA, the data table in Appendix “A” was provided by the CMF.

<sup>30</sup> Ibid.

<sup>31</sup> <http://www.ibtimes.com/game-thrones-big-budgets-bring-huge-success-how-hbo-series-makes-money-high-cost-episode-1658966>.

<sup>32</sup> See also, Bloomberg.com, “TV’s ‘Golden Age’ Won’t Last Because You’re Not Watching Enough” (<http://www.bloomberg.com/news/articles/2015-05-28/tv-s-golden-age-won-t-last-because-you-re-not-watching-enough>): “...’Mad Men’ debuted with mostly unknown actors. Now producers are signing up hotshot directors like Martin Scorsese and Woody Allen as well as big-name actors such as William H. Macy and Robin Wright. Expensive locations are increasingly common. As a result, production costs are soaring, with some shows consuming as much as \$10 million per episode.”



**Brian Baker**  
**National Executive Director**  
**Directors Guild of Canada**



**Maureen Parker**  
**Executive Director**  
**Writers Guild of Canada**

## APPENDIX

The **Alliance of Canadian Cinema, Television and Radio Artists** (ACTRA) provides the perspective of 22,000 professional performers working in the English-language recorded media in Canada. For more than 67 years ACTRA has represented the performers living and working in every corner of the country who are pivotal to bringing Canadian stories to life in film, television, sound recordings, radio, and digital media.

The **Canadian Media Production Association** (CMPA) represents the interests of screen-based media companies engaged in the production and distribution of English-language television programs, feature films, and new media content in all regions of Canada. The CMPA's member companies are significant employers of Canadian creative talent and assume the financial and creative risk of developing, producing and distributing original content for Canadian and international audiences.

The **Directors Guild of Canada** (DGC) is a national labour organization that represents key creative and logistical personnel in the film, television, and digital media industries. Its membership includes over 3,800 individuals drawn from 47 different occupational categories covering all areas of direction; production; editing; and design of film, television, and digital media production in Canada.

The **Writers Guild of Canada** (WGC) is the national association representing more than 2,200 professional screenwriters working in English-language film, television, radio, and digital media production in Canada. The WGC is actively involved in advocating for a strong and vibrant Canadian broadcasting system containing high-quality Canadian programming. While the WGC's mandate is to represent its members, in advocating a strong Canadian broadcasting system that offers Canadians a variety of programming, it also plays a role in balancing competing interests in the broadcasting system.

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