

COALITION OF CANADIAN AUDIO-VISUAL UNIONS

Oral Presentation to CRTC

December 4, 2006

PETER MURDOCH:

Good morning, Mr. Chairman and members of the Commission.

My name is Peter Murdoch and I am Co-Chair of the Coalition of Canadian Audio-Visual Unions. I am also the Vice President, Media of the Communications, Energy and Paperworkers Union of Canada.

The CCAU is a coalition of ten Canadian audio-visual unions. However, the CCAU submission to you in this proceeding focuses only on English-language television, so it was prepared by the English-language guilds and unions within the CCAU. .

Let me now introduce our panel:

In the front row, to my far right is David Hardy, Business Agent, NABET Local 700-CEP. Next to him is Pamela Brand, National Executive Director and CEO, Directors Guild of Canada.

On my far left is Steve Waddell, National Executive Director, ACTRA. Next to Steve is Maureen Parker, Executive Director, Writers Guild of Canada.

Behind us, from left to right, is Ken Thompson, Director, Public Policy & Communications, ACTRA, Monique Twigg, National Research and Policy Manager, Directors Guild of Canada, Kelly Lynne Ashton, Director of Industrial Policy and Research, Writers Guild of Canada, and finally, Peter Grant, our outside counsel from McCarthy Tétrault.

We appreciate the opportunity to appear as part of your proceeding and I would now ask Steve Waddell of ACTRA to begin our group's formal presentation.

STEVE WADDELL:

Good morning. Our focus today is on the continuing crisis of Canadian English-language drama and comedy on our television. We want to tell you what caused the crisis and what we think will solve it.

Canadian dramatic programs including comedy -- are the cornerstone of our broadcasting system. Programs written directed and performed by Canadians - original "10-point dramas" -- strengthen and enrich our broadcasting system. They resonate with Canadians, and they allow us to see ourselves and serve to strengthen our national identity.

Of the 30 top rated programs in Canada measured by BBM, 21 were drama programs. All you have to do is look at a TV guide to see how many dramas there are on TV these days. The problem is they are mostly not Canadian. In fact Canadian dramas, I am sad to say are few and far between.

When it comes to Canadian drama, the record is clear. The private broadcasters have tried to do as little as they could get away with. The past seven years since 1999 paint a pathetic picture that demonstrates graphically that Canadian drama is in crisis.

Just before the CRTC hearings on what we call the 1999 TV policy, private broadcasters in English Canada spent \$73 million on Canadian drama, a new high. But their Canadian drama spending has deteriorated ever since the 1999 TV Policy. Private broadcasters' financial support for Canadian drama dropped to only \$54 million last year. The lowest it has been for eight years.

More appalling is that the broadcasters' low spending actually included spending on Canadian drama required by transfers of ownership and new licence benefits.

In 2005, their spending on Canadian drama had declined to only 3.2% of revenues, again the lowest level in eight years and a drop of 37% since 1998. The 1999 TV Policy was a failure. It let the private broadcasters off the hook for Canadian drama programming. It's time to change the policy.

DAVID HARDY:

There are a couple of constants whenever the Commission holds hearings such as this.

One of them is that Canadian English language OTA broadcasters always seem to have sufficient funds to bid up the prices for U.S. drama. Another is that the future always looks gloomy, no matter how good or bad the last licence term has been. This round is no different.

Much has been made of the “threat” of the Internet and whether or not it will cannibalize the viewing of television.

You should take those arguments with a large grain of salt.

Contrary to what you may have heard from some broadcasters last week, TV viewing by Canadians has remained remarkably constant over the past five years, despite significant growth in broadband access to the Internet. In fact, overall viewing numbers have risen from 23.7 hours to 25.1 hours a week. Moreover, TV viewing by children and teens, two demographics that might have been expected to drop because of increases in video games and cellphone use, rose in the same period.

At this stage, it does not appear that the new platforms will cannibalize existing television. Instead they will complement and promote the OTA services.

According to a Statistics Canada released last August, TV viewing habits are no different for heavy Internet users than they are for non-Internet users.

Cross platform projects are increasingly anchored around major television properties, and are used to promote traditional viewing. In addition, to the extent that Canadian content created for traditional media reappears on the new platforms, there may a favourable multiplier effect in terms of the accessibility of Canadian programming.

In order to prepare for this proceeding, CCAU retained Nordicity to validate projections for the advertising revenue likely to be generated by CBC and the private broadcasting sector in the period up to 2010. Nordicity

concluded that ad revenue for conventional TV in Canada will increase over the next five years. In dollar terms, the ad revenue for conventional private TV stations in English Canada is forecast to increase from \$1.68 billion in 2005 to between \$1.85 and \$1.91 billion in 2010.

The OTA licensees are the foundation for the financing of Canadian drama. Thus, it is all the more important that they be subject to meaningful drama requirements, given that the content may then appear on multiple platforms.

PAMELA BRAND:

It is clear that more money needs to be invested by the private OTA broadcasters in Canadian drama. The experience around the world is that broadcasters in other countries pay far more for local drama, either in terms of the proportion of their own overall programming budget or in terms of the licence fee as a percentage of the production cost of the program, than is the case in English Canada.

In 2003, the Commission stated that it “agrees that the lack of funding is a key contributor to the difficulties facing Canadian drama.” Now is the time to do something about it.

We are not surprised to hear the OTA broadcasters seek a lighter hand of regulation. Of course they don’t want to be forced to spend money on Canadian drama. But you never hear the other side of the coin, the extensive benefits and protections that they get from the *Broadcasting Act* and from the CRTC.

We have listed those benefits in our written submission. They include limits to the licensing of competing over-the-air TV broadcasters, must-carry and priority provisions for local Canadian signals on BDUs; the simultaneous substitution policy; Section 19.1 of the *Income Tax Act*; prohibition against competing U.S. pay and specialty services; and financial support for priority programming from the Canadian Television Fund, tax incentives and other sources.

And at this hearing, the OTA broadcasters have come to you asking for still more. They want loosening of Cancon rules, loosening of the advertising rules and a fee for carriage.

Our view is very simple. It's time that the CRTC require the OTA broadcasters to give a quid pro quo.

It's time for a new regulatory bargain. It's clear that the Canadian broadcasting system needs more original hours of Canadian drama and fewer repeats. It needs more distinctive Canadian series, not fewer. It needs more support for script and concept development. But mostly, and this is a simple corollary of the first three requirements, it needs more money from OTA broadcasters. The CTF cannot be expected to make up the difference in cost, given the pressures on its funding. Nor can foreign pre-sales or export sales make up the difference.

It's time that the private OTA broadcasters be required to step up to the plate.

MAUREEN PARKER:

Over the past week broadcasters have told you about the great Canadian programs they have produced.

CTV attributes some of these shows' success to the use of transfer benefits. While that may be true – we cannot build an industry that is dependent on mergers and acquisitions. The benefits program is inherently unpredictable. There are no guidelines for how benefit packages are allocated. It also only affects that specific broadcaster. Drama funding needs to be reliable, consistent, and accessible.

You have already recognized the need for higher levels of drama spending by introducing the incentive plan. When the plan was introduced, the Commission hoped that broadcasters would voluntarily increase spending from 4% of ad revenues to an eventual high of 6%. Instead, it has dropped to 3.2% – and that even includes benefits. So how are these incentives working?

Private broadcasters are owned by shareholders who focus on profit. Canadian drama will always cost more – and generate less ad revenue – than buying already-made and paid-for American drama. Broadcasters need to be

compelled by the CRTC to spend money where the return is lower. Simply put – this is a cost of doing business in Canada.

That’s why it is crucial that the CRTC put a long-term regulatory “safety net” in place to ensure Canadian drama doesn’t fall below an acceptable level. A key component is to require private conventional TV broadcasters to spend at least 7% of their gross ad revenue on Canadian drama. This must be part of a revised broadcast policy that applies equally to all over-the-air broadcasters. It is a completely manageable formula. Spending will go up as revenues go up – and go down if revenues go down. And that would still only result in one-third of what they spent on foreign drama last year.

According to the Commission, regulation is needed when the goals of the Broadcasting Act cannot be met by any other means.

The Act provides broadcasters with regulatory protections. We are now asking the Canadian public be given the same consideration. We need firm drama expenditure requirements so Canadians have the choice to watch Canadian drama programs on television.

PETER MURDOCH:

As you can see, Mr. Chairman, we have focused our oral presentation entirely on the key point, the need for an expenditures rule on Canadian drama, although we have addressed many other points in our written submission.

That concludes our presentation and we welcome your questions.