



August 10, 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 2007-11, CanWest MediaWorks Inc. acquisition of Alliance Atlantis Communications Inc.

1. This is the Writers Guild of Canada's written intervention regarding the application by CanWest MediaWorks Inc. ("CanWest") to acquire the regulated assets of Alliance Atlantis Communications Inc. ("AAC"). **The WGC wishes to appear** at the public hearing to address any questions the Commission may have on the intervention 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. The WGC does not support CanWest's acquisition of the regulated assets of AAC. As part of the Canadian Coalition of Audio Visual Unions ("CCAU"), the WGC has submitted its thoughts on the financial aspect of the transaction. The CCAU feels very strongly that this transaction should not be approved by the Commission because of the foreign ownership issues and the 'control in fact' of the new amalgamated company by U.S. resident Goldman Sachs & Co. The WGC is submitting these comments in addition to its comments as part of the CCAU.
4. AAC and its predecessor companies Atlantis Films Limited and Alliance Entertainment Corporation were able to grow and prosper because of direct government support through funding for film and television production, distribution assistance and tax credits. From its founding in 1978, Canadian taxpayers helped Atlantis Films Limited thrive with productions like "Traders", "Neon Rider" and "Outer Limits" which are still being distributed throughout the world. They also supported Alliance Entertainment Corporation from its beginnings in 1984 to produce "Due South", "E.N.G." and feature films like "The Sweet Hereafter". After the two companies merged in 1998, AAC continued to be a leader in television production, with government assistance, with titles such

as “The Eleventh Hour” and “Cold Squad”. AAC was the crown jewel of companies supported by the Broadcasting Act’s requirement that broadcasters make maximum use of Canadian resources in the creation of programming.

5. Starting in 2003 AAC chose to scale back and eventually close its film and television production division and focus on its more profitable broadcasting arm. This broadcasting arm consists of the AAC specialty channels which are the subject of this transaction. This was a great blow to the Canadian independent television production community as a major engager and producer of Canadian television programs was no longer in the business. Prior to closing the production division AAC had bought up and absorbed a number of the midsize Canadian production companies, such as Great North Productions and Salter Street Productions so that when AAC got out of the production business it took those companies with it and left a vacuum that is still being felt. The proposed acquisition of AAC by CanWest with the financial assistance and control of Goldman Sachs is a further blow. More than that however, it is a slap in the face to Canada’s taxpayers who funded the growth of AAC in the expectation that it would remain a leader in the Canadian and global film and television markets, supplying Canadian programming to broadcasters and engaging thousands of talented Canadians each year. Canadians helped AAC, Great North, Salter Street and many other companies build up a library of program assets which, while not the subject of this application, are still going to be exploited and controlled in fact by a non-resident company. If this transaction is approved the primary beneficiary of AAC’s success will be the U.S. company Goldman Sachs as it will earn 64% of the profit. The interests of Canadian taxpayers should be protected from this outcome.
6. Further, the WGC strongly objects to the regulatory process in this transaction. The CanWest application was gazetted before it was final. CanWest made changes to the financing of the transaction and rather than amend the application, which could delay the hearing, it announced the changes to the media. This information is now on the public record as the result of a subsequent deficiency letter from the Commission however the result is that intervenors have to comment on an application which is a moving target. No explanation has been given for why the Commission has departed from precedent to give CanWest so much room to manoeuvre while jeopardizing the public’s ability to provide coherent comments on the transaction. On several occasions Mr. von Finckenstein, Chair of the Commission, has shared with the public the four main principles that will govern the work of the Commission under his stewardship: transparency, fairness, predictability, and timeliness. The WGC is concerned that in its treatment of the CanWest transaction the Commission appears to be sacrificing transparency, fairness and predictability in search of timeliness.
7. Should the Commission chose to approve the transaction, the WGC has comments on the structure of the proposed benefits package and the programming synergies which are set out below. As mentioned above, the WGC wishes to appear at the public hearing to both address any questions which the Commission may have on this intervention and as well any questions the Commission may have on the CCAU’s intervention.

Programming Synergies

8. While the WGC recognizes the benefit that can arise from extending the potential audience for a program from the smaller audience for AAC's specialty channels to the larger audience of CanWest's conventional channels, the WGC is concerned that without guidelines or limitations the programming synergies realized by CanWest by broadcasting programs over both channel groups will limit the available slots for original Canadian programming. Limitations should be put in place to ensure that there is not a net loss of priority programming to the Canadian broadcasting system.
9. The Commission recognized the potential problem of loss of programming diversity and approved specific limitations in the recent CTVglobemedia acquisition of CHUM Limited¹ and it would be consistent to apply those conditions to this transaction. The WGC specifically recommends:
 - Separate management of programming as between the CanWest conventional channels on the one hand and the AAC specialty channels on the other hand.
 - No overlap in priority programming between CanWest and AAC during prime time on an annual basis. CanWest would still be able to air programming on the alternate channel group as a second window in a subsequent year to extend the audience as they would have been able to if there had not been common ownership.
 - At least 75% of all priority programming broadcast by AAC be produced by independent production companies.

Benefits Package

10. To reiterate, the WGC does not support the approval of this transaction. However, should the transaction be approved the Benefits Package as proposed has several flaws which should be fixed before being approved.
11. CanWest has proposed that a number of initiatives aimed at funding production of scripted dramas and documentaries will be paid out over ten years rather than the usual seven years. The rationale for this is that a longer term 'extends the lifespan of benefits funding over a longer period of time' and as well prevents a shock to the system when CanWest benefits end at the same time as CTVgm benefits and Rogers benefits also end. This is a transparent ploy at spreading out the costs over a longer term without sufficient justification. Spreading the money out only means that less money is spent on projects each year or CanWest has longer to delay spending the money which supports the adage that money deferred is money saved. All of the Benefits Package should be spent

¹ Broadcasting Decision CRTC 2007-165, June 8, 2007

over a 7 year term, consistent with past practice. It is unheard of for a buyer to be able to spread the cost of a Benefits Package out over a longer term.

12. The WGC was also very concerned to learn how little of the Craig Benefits Package CHUM had spent by the time of the acquisition of the Citytv stations by Rogers (which is pending approval)². WGC reiterates its recommendations contained in its intervention in that proceeding³ that it be a condition that at least 14% of the Benefits Package be spent in each of the 7 years of the package. Acknowledging CanWest's point that it does take time to develop projects before spending the money to produce them, the spending for the first two years of the package can be assessed as an average of 14% over those two years.

13. CanWest makes no commitment that the Benefits Package will be spent on independent production and only in a deficiency letter⁴ does it commit that the funded programs will air first on AAC. These are two conditions of the benefits package policy which are central to insuring that the funding goes to the benefit of the Canadian broadcasting system and not into the pocket of the acquiring company. WGC therefore recommends that it be a clear condition of the Benefits Package that:

- 100% of the Benefits Package be spent on independent productions; and
- All productions funded by the Benefits Package will air first on AAC and will be produced so as to be consistent with the terms of service of at least one AAC channel.

14. The WGC is very concerned that the \$55 million Scripted Drama Production Initiative will only fund 50 hours of drama over ten years. To put this into perspective this would mean only three series of 13 episodes plus one of 11 episodes over the course of ten years. The math is confusing as well. Most licence fees for television stay close to the Canadian Television Fund minimum licences fees. The CTF licence fee threshold for one hour dramas over \$800,000 (and average one hour budgets are \$1.2 million) is \$315,000. At an average licence fee of \$315,000 the Scripted Drama Production fund would be able to fund 174 episodes of drama. Even if they paid above average licence fees of \$500,000, 110 hours of programming would be produced. Working backwards, this suggests that CanWest will be covering the full cost of \$1.1 million for 50 hours of programming to be aired on AAC. However, it is not certain as to how the 50 hours was arrived at.

² See Rogers acquisition of Citytv stations application No. 2007-0925-6 where it was noted that only 7.36% of the Craig benefits had been spent after almost three years.

³ Broadcasting Notice of Public Hearing CRTC 2007-9

⁴ Letter from Charlotte Bell, Vice-President, Regulatory Affairs, CanWest Media Works to Lyne Renaud, Director, Ownership & Acquisitions, CRTC dated June 1, 2007 (the "June 1 Deficiency Letter")

15. Given CanWest's track record in Canadian drama and the reality of production budgets for drama series on specialty channels we find it hard to believe that they intend to cover the full cost for 50 hours of programming. For many years CanWest's only one hour drama was "Blue Murder" supplemented by many episodes of the very low budget half hour program "Train 48" which portrayed the daily life of commuters on a train. Some years there has been no one-hour dramas on their schedule.⁵ Without an expenditure requirement CanWest was able to meet their priority programming requirements with low budget and high volume programming such as "Train 48" and entertainment magazine shows. Even when singing their own praises in the Supplementary Brief CanWest came up with "Entertainment Tonight Canada", an entertainment magazine show based on the U.S. format, and "The Jane Show" a (cancelled) half hour comedy, as examples of their "exceptional Canadian content".

16. Given that CanWest's mandate will be to increase profits for Goldman Sachs we see no reason to believe that CanWest will not continue its strategy of making low cost and low quality programming in order to meet their priority programming requirements while maximizing their profit. If this transaction is approved, this strategy would then expand to the AAC channels as well. This is particularly worrisome as AAC has started to be a real driver of Canadian drama despite its smaller audiences and lower budgets. AAC channels need to provide distinctive programming in order to attract audiences. Showcase, in particular has positioned itself in the market as a broadcaster of innovative, distinctive drama. Showcase has as original programming series such as "Rent-A-Goalie", a series about the crude and rude world of amateur hockey in Toronto, and "Naked Josh" which reveals the sometimes racy world of a single Montreal anthropology professor. The WGC is concerned that Goldman Sachs need for profit will drive CanWest to abandon programming such as "Rent-A-Goalie" and "Naked Josh" in favour of more "Train 48". "Rent-A-Goalie"'s last season had an average budget of \$479,762 and "Naked Josh"'s last season had an episodic budget of \$500,000 an hour. This is in stark contrast with the \$30,000 per half hour budget of "Train 48". Programs need to have significant budgets in order to have the quality necessary to successfully compete against U.S. drama. It is the only way to win over the audiences that are used to the even higher U.S. drama budgets.

17. The WGC would therefore like clarification on how the \$55 million would be spent to ensure that it finances all or part of high quality drama production to be aired on AAC first.

⁵ In 1999, the last year before the removal of expenditure requirements, CanWest had 3 one hour indigenous series for a total of 57 one hour episodes. Series were "Traders", "PSI Factor" and "Code Name Eternity". From 2000 to 2003 the only series was "Blue Murder" with 13 episodes produced each year. No one hour drama series in 2004. In 2005 they licensed 13 episodes of "Falcon Beach" and shared the window with TMN for 13 episodes of "Regenesis". In 2006 they licensed another 13 episodes of Falcon Beach and as well shared the window with TMN for another 13 episodes of "Regenesis" and 6 episodes of "Durham County". Also from 2003 – 2005 CanWest aired 318 episodes of half hour series "Train 48".

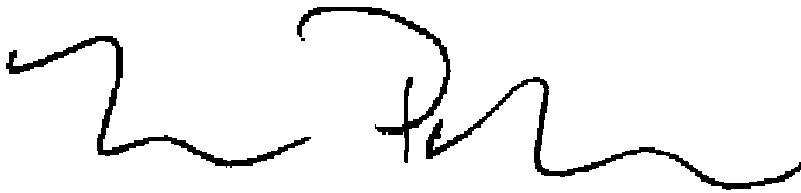
18. The WGC would like to specifically support the allocation of \$4 million in benefits to fund new media associated with programs produced under the Benefits Package. As many parties have stated in many hearings, new media production is under funded at a time when only through a greater degree of production will Canadians have the choice to watch and interact with Canadian new media.
19. We understand from the June 1 Deficiency Letter that it is the intention of CanWest to broadcast the feature film "Passchendaele", originally intended for History Television, on one or more CanWest services. We support this expansion of the audience for such a worthy subject however any CanWest broadcast should be as a second window in the second year after initial broadcast in order to maintain no overlap in priority programming in prime time on an annual basis.
20. CanWest has proposed allocating \$13.5 million over ten years to creating a Canadian star system with televised award shows and Red Carpet Tributes. This is too much money and is not necessary. Televising award shows is relatively inexpensive production unless it is an established award show such as the Juno's or the Gemini's, in which case CanWest would have to outbid the current broadcasters. Benefits Packages are not intended to finance a bidding war between broadcasters as this is clearly not a benefit to the Canadian broadcasting system. The major award shows (Geminis, Junos, Genies) are televised already however there are a few not yet televised such as the WGC's annual Screenwriter Awards, which could easily be televised for very little cost. As well, award shows and Red Carpet programming are often in-house productions, which keeps the costs low, and could therefore easily be covered by CanWest's existing budget. Allocating Benefits Package money to such programs would be directly benefiting only CanWest and not the Canadian broadcasting system. It also should be noted that any such award shows would have to fit within the terms of service of an AAC channel, which could be hard to do given their focus on drama, documentary, history and lifestyle programming. In fact, they are more consistent with ET Canada and E! Channel programming than AAC.
21. For the foregoing reasons, the WGC recommends that the Award Shows/Red Carpet Tributes initiative be reduced from \$13.5 million to \$2 million with the balance to be added to the Scripted Drama Production initiative. We will have no talent to celebrate if there are not enough high quality drama programs on air.
22. The WGC recognizes that there is a precedent with CRTC 2000-747 towards funding expansion of news bureaus however in that case of BCE's acquisition of CTV, CTV had and still has extensive news coverage on air. As AAC does not have news coverage the expansion of the news bureau would only benefit CanWest and in fact is likely to benefit its non-broadcast affiliates such as the National Post and Canada.com more than it would benefit AAC. Accordingly, this is not an appropriate allocation of the Benefits Package and the WGC recommends that the \$10 million allocated for expansion of international news bureaus be instead allocated to the Scripted Drama Production initiative.

23. For the same reason the WGC objects to the allocation of \$5 million to digitizing CanWest news footage as this is not a benefit that AAC will gain from. The WGC recommends that the \$5 million be allocated to Scripted Drama Production instead.
24. CanWest has allocated \$10.75 million of Social Benefits to Training/mentorship and internship. It is not good enough to train people if there are no jobs for them to go to when they are trained. More money should be spent on program production and less on training as the Canadian independent production community has many highly qualified and well-trained individuals who are not fully employed or being given the opportunity to develop their skills in increasingly challenging positions. As CanWest has pointed out, there have been a lot of benefits packages this year and as a result respected training institutions such as the National Screen Institute and the Canadian Film Centre have been identified as recipients of several pots of money. It is time to stop spending money on training and put the money in production. At a conservative licence fee of \$315,000 per hour, this training fund would finance 34 hours of drama engaging hundreds of talented and skilled Canadians.
25. The WGC takes particular exception to the premise behind the proposed Showrunner course to be run by the Banff Centre. The WGC represents many showrunners including Susin Nielsen ("Robson Arms", "Alice, I Think"), Peter Mitchell ("Cold Squad", "Traders"), Brad Wright ("Stargate: SG1", "Stargate: Atlantis"), Peter Mohan ("Blood Ties", "Mutant X"), Chris Haddock ("DaVinci's Inquest", "Intelligence"), Michael MacLennan ("Godiva's", "Queer as Folk"), Heather Conkie ("Heartland", "Dark Oracle"), Bob Carney ("Murdoch Mysteries", "E.N.G."), Peter Lauterman ("Falcon Beach", "North of 60") and the team of George F. Walker and Dani Romain ("The Weight" and "This is Wonderland"), all of whom would be surprised to hear that the problem with Canadian television is that there are no Canadian showrunners. That's not even mentioning the Canadian showrunners who moved to the U.S. because there isn't enough production to support them, like David Shore ("House", "Traders"), Hart Hanson ("Bones", "Traders") and Paul Haggis ("The Black Donnellys", "Due South"). The number of working showrunners in Canada has dropped from 56 in 2001 to 37 in 2006 because there isn't enough work.
26. Today's showrunner hires and trains tomorrow's showrunner. Writers grow in skill with experience. The Canadian broadcasting system needs more drama series which will then give writers opportunities to hone their craft and grow into more skilled positions. We need more 'on the job' training. Training funding could go to creating more jobs in story departments which would allow writers to learn from the working showrunner on that show. There is no need to import U.S. showrunners. It is an example of the worst of a colonial 'Canadians can't make good TV' mentality that the industry fights against every day and it is disheartening to get this message from one of our national broadcasters. While the WGC would prefer to see the Benefits money spent on production of drama which will engage our highly qualified showrunners, if training is a necessity then there are many Canadians who could fill those training roles and who will better understand the realities of working within the Canadian broadcasting system.

27. To conclude, the WGC states again that we do not support the acquisition of AAC's regulated assets by CanWest but if the transaction is approved by the Commission we feel that it is essential that the Benefits Package be amended to provide more money for production that will air on AAC channels, benefit the Canadian broadcasting system and less money for training to do jobs that do not exist. The WGC would like to appear at the hearing to address any questions the Commission might have.

28. 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', with a large, stylized initial 'M' and 'P'.

Maureen Parker
Executive Director

c.c.: WGC National Council
Kelly Lynne Ashton, Director Industrial and Policy Research, WGC
Charlotte Bell, Vice-President, Regulatory Affairs, CanWest MediaWorks

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