



May 13, 2009

FILED ELECTRONICALLY

Mr. Robert A. Morin
Secretary General
Canadian Radio-television and
Telecommunications Commission
Les Terrasses de la Chaudière
Central Building
1 Promenade du Portage
Hull, Québec J8X 4B1

Dear Mr. Morin:

Re: Reply - Broadcasting Notice of Public Consultation, CRTC 2009-70, CRTC 2009-70-1 and CRTC 2009-113, CRTC 2009-113-1 and CRTC 2009-113-2 – Licence Renewals for Private Conventional Television Stations

1. This is the Writers Guild of Canada's reply to the Commission in connection with various questions which were raised during the hearing by the Commission. Thank you for the opportunity to either address your questions or elaborate on our answers at the hearing.

Profitability of Canadian Programming

2. We include with this Reply a copy of the Nordicity report entitled "Analysis of the Economics of Canadian Television Programming". The WGC together with their colleagues the DGC, ACTRA and CFTPA commissioned this report to identify the circumstances under which Canadian television programming could make money. The report was released to the public the morning of May 7, 2009 and referred to in our presentation. We understand that the CFTPA provided Commission staff with a copy of the report however to be on the safe side we are including a copy with our Reply.
3. We would also like to clarify a few points which arose in our discussion with the Chair of the Commission regarding the Nordicity Study. The Chair appeared to be looking for an annual profit margin for Canadian programming to compare to the data which we assume the broadcasters provided to the Commission in confidence. Our study is not an assessment of the broadcasters' annual profit margin for Canadian drama. Rather, it examines the revenue generated over the average seven year licence term of a Canadian drama. Our approach is necessary because Canadian broadcasters make very different investments when they buy Canadian programming versus American

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programming. Canadian broadcasters license American programming for one or two years at the most. It would therefore make sense that the full cost of an American program be included in one year's accounting and that the associated revenue from that one year be attributed to the program.

4. However, Canadian programs have a longer life on Canadian television. Due to Canadian Content exhibition and expenditure requirements there is a real value to rebroadcasting the Canadian programs on many platforms repeatedly over the years and each broadcast attracts ad revenues. Broadcasters license Canadian programs for generally seven years for broadcast over all of the stations that they own. During the group licensing hearing, the Commission can verify this by requesting that broadcasters confidentially file copies of their broadcast licence agreements for both Canadian and U.S. programming with the Commission. In the meantime however, a quick scan of broadcast schedules will illustrate our point. The Comedy Network is airing episodes of "Corner Gas" from season 4 though season 6 just had its finale on CTV. Much Music is replaying the entire series "Instant Star" (which premiered in 2004 on CTV). Broadcasters will even relicense Canadian programs long after the initial licence as inexpensive Canadian content. Showcase currently has Canadian programs "Sweating Bullets" (1991), "The Outer Limits" (1995), "Da Vinci's Inquest" (1998) and "Mutant X" (2001) on the current schedule. Each one of those Canadian series was initially produced for conventional television and is continuing to earn ad revenues long after its initial release.
5. Accordingly, the premise of the Nordicity Study is that rather than look at the profitability of Canadian programming on a one-year basis it was more accurate to look at it over the life of the initial licence. Not every program goes on to be replayed 18 years after its initial broadcast, like "Sweating Bullets", so it was felt that it would be more accurate to look at the initial licence term which is generally seven years. The economic modelling was then to look at different types of programs (i.e. one hour, half hour and one hour with a foreign presale) to identify if they can make money when factoring in licence fees, administration costs and estimated ad revenues from repeated plays. Rather than compare Canadian programming to American programming, the goal instead was to identify if it was possible or even probable for Canadian programming to make money. And it is. We do not dispute that American programming is more profitable but we do dispute the broadcasters' assertions that Canadian programming can never make money.
6. The analysis does show that repeated plays over conventional and specialty networks ensure profitability. Commissioner Katz asked our colleagues at ACTRA whether it was reasonable to model 49 repeat plays and how long that would take. From our experience the 40 repeat plays referred to in Table 9 (One-hour drama series, specialty television drama, Friday/Saturday) would take place over the length of the licence. Repeats on specialty could start as soon as later the same year a program was broadcast on conventional or wait one or two seasons. At the latest there would be five years left in the group licence term for those 40 plays. It is not unconceivable to play episodes of a drama series 8 times in one year on a specialty service. Specialties do not divide their schedule into daytime local programming and prime time drama. The result is that for services such as Showcase and History they air prime time dramas throughout the day and into the evening. The Commission could verify this pattern through a review of broadcaster logs.

7. We were limited to economic modelling because we do not have access to the actual financial data and programming logs to be able to statistically arrive at the profitability of Canadian programming. The Commission may wish to ask the broadcasters to confidentially provide this information as part of the group licensing process provided that the broadcasters identify all relevant revenue attributable to Canadian programming. Only then will the Commission have a truly accurate picture of the comparable profitability of programming.

1:1 Expenditure Ratio

8. We wish to clarify our response to the Chair's question regarding our position on a possible 1:1 spending ratio for drama. While the spending on foreign drama is clearly the core of the broadcasters problem with excessive foreign programming spending we do not think that it would be a fast fix to impose a 1:1 drama expenditure ratio. Currently the foreign to domestic expenditure ratio for drama is 9:1 in English Canada for conventional television. In 2007 and 2006 it highs of 12:1. To shift immediately to a 1:1 ratio is improbable. We are willing to work with the Commission to determine what would be an appropriate ratio that would serve to limit spending on foreign drama and an appropriate phase-in period. We are looking for balance in the system and are willing to compromise to achieve a workable solution.

The 'Trust Us' model

9. Commissioner Cugini asked the WGC for a reaction to CTV and CanWest wanting to cease to measure and file reports on priority programming and independent production and instead take that cost-savings and spend it on local programming. This is what we think of as the 'trust us' model. First, we question how much of a cost saving compliance would be. More importantly, we wish to be clear that we feel that we and the rest of the independent production community have learned the hard way that we cannot trust the broadcasters to fulfill their obligations under the Broadcasting Act unless they are compelled to. In our presentation we outlined the history of Canadian Content regulation. For years the broadcasters made promises to air more Canadian drama and the CRTC set expectations and for years the broadcasters failed to do what they promised. Finally, the CRTC had no choice but to set conditions of licence. Nothing has happened to convince us that the broadcasters can now be trusted to air priority programming and independent production in the absence of regulation. In fact, their repeated requests to air less or no priority programming and independent production leads one to believe that they will cease to do so the minute that they have the chance.

Economic Impact of Recession

10. Commissioner Menzies asked the WGC what would be the average salary of a screenwriter. As we explained, as a freelance workforce that does not work all the time it is difficult to identify an average salary. It may be more helpful to explain that of the 2000 members, last year only 996 reported earnings. Of that amount 484 members made less than \$20,000 and 204 members made between \$20,000 and \$50,000.
11. Commissioner Menzies also asked the WGC to explain to what extent the current recession has impacted the WGC members. This is not an easy answer. As we explained, WGC members are freelance screenwriters who by their nature do not work full time. It is therefore not possible to talk about employment numbers or salaries as indicators of the impact of the recession. We will have statistics on the numbers of

hours of television produced and writers contracted however as the economic downturn started at the end of 2008 its true impact will not be felt until the 2009 production year is completed. We would be happy to provide you with comparative numbers of hours produced and writers contracted next year. In the meantime we can tell you anecdotally that development appears to be down as few broadcasters are committing to new projects. And more and more producers are delaying payment to writers as they struggle to maintain their cashflow and as payments to them by broadcasters are delayed in the name of cashflow. The WGC has experienced a sudden increase in grievances solely on the issue of non-payment of fees.

Next Steps

12. Finally we would like to reiterate that while we are eager to have the big policy issues, including the solution to funding Canadian drama, solved as soon as possible we understand that the economic downturn might require a short term renewal to maintain status quo while the bigger issues are worked out. We therefore recommend a one year term at status quo followed by a policy hearing and then group licensing. We are eager to address the big policy issues such as funding Canadian drama with all possible data in our hands, including detailed historical spending and long term projections. We urge the Commission not to set a status quo renewal term of longer than one year as the one year term is a substantial sacrifice for Canadian programming.
13. When structuring the group licensing hearing we ask the Commission to try to simplify the structure of the hearing. Small stakeholders such as ourselves will have issues to present that are overall structural issues, related to conventional television only and related to specialty services only. The hearing has the potential to be so large, so complicated and so time-consuming that it risks being cost-prohibitive for small organizations to attend. We ask that the Commission keep this in mind in its deliberations.
14. We thank you for this opportunity to provide you with our reply comments.

Yours very truly,



Maureen Parker
Executive Director

c.c.: Rebecca Schechter, President

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