



August 1, 2008

The Honourable Josée Verner
Minister of Canadian Heritage,
Status of Women and Official Languages
Department of Canadian Heritage
15 Eddy Street
Gatineau, Québec
K1A 0M5

Dear Ms. Verner:

Re: The Canadian Radio-television and Telecommunications Commission ("CRTC) Report on the Canadian Television Fund ("CTF") to the Department of Heritage

The Writers Guild of Canada ("WGC") is the national association representing more than 1,800 professional screenwriters working in English-language film, television, radio and digital media production in Canada. As you know, the WGC has been very involved along with other industry stakeholders with the recent reviews of the CTF and the Public Hearing at the CRTC. We have read the CRTC's report to the Department of Heritage with great interest. We understand that you are now reviewing all of the material and will be making your own recommendations to Cabinet. We would like to share with you our thoughts on the CTF in the hope that it might help in your deliberations.

We urge the government to carefully consider the ramifications of any radical changes which may be made to the CTF. Are the changes truly necessary? Will the changes support the entire Canadian broadcasting system or only certain elements of the system? Are the changes that have been proposed by certain stakeholders motivated by a desire to improve the system or only their own interests? The WGC recognizes the need for a pragmatic approach which hopes to balance the competing interests of various industry stakeholders but we encourage the Minister not to advocate change for change's sake. The CTF has worked very well for many years and should be allowed to continue to do so.

Success of the CTF

The CTF and various stakeholders are on record detailing its success but the figures bear repeating. In the CTF 2006-07 Annual Report they reported that in the 11 years that it had been in operation the CTF had contributed \$2.5 billion dollars to 4,900 productions, triggering more than \$8.2 billion in production activity. Television programs that have been clear hits with the audiences were funded by the CTF. The list includes shows like sitcom "Little Mosque on the Prairie", prime time series "Flashpoint", preschool animated series "Bo on the Go!" documentary "Flight 182" and comedy series "This Hour Has 22 Minutes". Each of those programs and many many more has been a hit for its audience and within its target demographic.

More than that, the CTF has been a model agency. It has been flexible and adaptive. When the CTF suffered from serious oversubscription it brought in the Broadcaster Performance Envelope ("BPE") system so that only projects licensed by and supported by a broadcaster would receive funding. They have constantly worked to improve the BPE system, to make it more efficient as a tool to encourage consistent scheduling and higher licence fees. The government experimented with two separately administered funds with the EIP program administered by Telefilm and the LFP program administered by CTF before determining that two separate funds was confusing and wasteful. After much consideration the government decided to merge the administration of these two funds. In sum, the CTF and Department of Heritage have been responsive to the needs for change and have steadily improved the CTF while maintaining its role as an intrinsic element of the Canadian television industry. Substantial changes to the CTF should only be made if they can positively answer the question "will this make the CTF better".

Why Canadian Programming?

When television first came to Canada in the early 1950s Canadians were able to watch one Canadian channel (the CBC) and many more American channels. Since that time government policy has been to support the growth of a Canadian broadcasting system so that Canadians have the choice to tune in to their own programming. It seems obvious to most of us but, to quote the Department of Heritage's website:

Canada's broadcasting industry plays an important role in our country's cultural landscape. It contributes to Canadian identity and the democratic process. It is important in the maintenance of our sovereignty and to the development of Canada's knowledge economy.

And so we have had the CBC since 1952, the CRTC since 1976 and the CTF since 1994, all working in support of the government policy to make a variety of

quality Canadian programming available to Canadians – programming that reflected peacemaking over war making, gun control rather than the right to bear arms, zed not zee, multiculturalism, pond hockey, butter tarts and poutine. These are facile examples of how we differ from our neighbours to the south (including the spelling of neighbour) but it is important some times to remember that we are different, we have a different history and culture and we deserve and want to see our distinct culture reflected on television.

This policy has supported the growth of the multi-channel universe populated by Canadian-owned channels in English, French, aboriginal languages and newer immigrant languages reflecting the varied regions of Canada and the local communities across Canada. These channels have been carried by Canadian-owned companies allowing for the development of an indigenous telecommunications industry. And these channels have been full of Canadian created, produced and owned dramas, documentaries, variety programs, animation and more. Without these government policies we would not have the strong Canadian broadcast system we have today.

Still, it is not easy to produce Canadian programming. To quote a previous Minister of Heritage¹ “The marketplace, on its own, will not produce television that reflects Canadian life and Canadian values.” This statement was first made in 1996 but it is still true today. The Chair of the CRTC has made similar statements about the continual need for regulation to support Canadian content on the Canadian broadcasting system because ‘market forces alone cannot be relied upon to advance these objectives’.² The Chair specifically stressed the importance of the CTF as a supporter of Canadian Content in a speech at the last Banff World Television Festival:

“First, we live next door to the United States. It is the biggest media production market in the world. Its output of programming is prodigious. It's popular. It's available in Canada at a fraction of its cost and our broadcasters make money on it. In order to survive against that competition, our own programming needs some help. That's why we support it with Canadian content regulations. And that's why we need a CTF that is as strong and productive as it can possibly be.”³

¹ Hon. Sheila Copps in press release announcing formation of Canada Television and Cable Production Fund September 9, 1996

² Speech by Konrad von Finckenstein to the International Institute of Communications Canadian Chapter Conference, December 4, 2007

³ Speech by Konrad von Finckenstein to the Banff World Television Festival, June 19, 2008

CRTC Report

We cannot say it any better than the Chair of the CRTC just said it – the Canadian television industry needs a CTF that is as strong and productive as it can possibly be. However, we disagree with the conclusion that the CRTC came to when it recommended to you that the fund be split into two funds, one for public monies and the other for private/BDU monies. We hesitate to call the BDU contributions 'private monies' because as the CRTC Report acknowledges, the contributions are required by the *Broadcasting Act* and are to be used for the public good. However the BDU contributions are characterized though the fact remains that splitting the fund into two funds will not make the CTF 'as strong and productive as it can possibly be'.

The WGC is on record as being opposed to the two fund model so we will be brief here in reiterating our position. Two funds, even with one administration, will increase bureaucracy and inefficiency and increase administrative costs. Current administration costs hover around 5% of revenues but were up to 7-8% when the administration of the EIP and LFP were split between Telefilm and the CTF. The high cost of administration was why the Department of Heritage decided to streamline administration and combine the funds. The administrative costs of two funds could easily increase to past levels, which has been estimated as a loss of \$7 million in potential television funding each year. That \$7 million of CTF money would trigger \$21 million in production or the equivalent of 16 hours of television. Needlessly increasing administrative costs at the expense of television production is not strengthening the CTF.

Further, a two funds model isolates growth in the 'private' fund which is a percentage of steadily increasing BDU revenues. Meanwhile the public fund remains flat as its annual government allocation has not increased in many years. Given that BDU revenues are based on the BDUs' ability to provide subscribers with both public and private broadcasters within their packages it seems inherently unfair that increases in subscriber revenues should only be to the benefit of the private broadcasters. How many subscribers would stay with a BDU if all of a sudden they ceased to carry CBC?

Two funds with separate boards is also a concern for the WGC. BDUs are carriers of signals and not programmers or producers and creators of programming. We have no confidence that a BDU-controlled board would have the necessary guidance and information to make decisions which are for the benefit of the entire industry. Further, several BDUs are also broadcasters either directly or indirectly (Shaw/Corus, Québecor/Vidéotron/TVA, Rogers) which gives rise to questions of conflict of interest and self-dealing. The CRTC Report suggests that the private fund would not be subject to the *Broadcasting Act's* public policy goals. There would therefore be nothing to stop that fund from changing their guidelines to suit their own desires. Underserved programming, the Canadian talent pool and independent production would cease to be

protected and supported. The current CTF Board is a balanced board of most of the stakeholders in the industry. With those checks and balances in place its decisions reflect consensus and the needs of the industry as a whole.

Many of the CRTC Report's recommendations were vague and leave us with unanswered questions. While it characterizes the private fund as a fund that supports 'audience success' and is market-oriented the audience success factors of the BPE system remain in place for the public fund. The Report recommends however that the public fund should address public policy goals. Does this mean that a BDU controlled private fund could ignore the public policy goals of the CTF in their race for ratings? Does it mean that audience success is no longer a factor for public broadcasters? If the answer is yes to both questions we risk creating a two-tier Canadian broadcasting system. The public tier would likely fall into a 'grant' mentality with no incentive to licence programs with a broad appeal while the private tier would only support programming that could bring in the biggest audience numbers. Without audience accountability public broadcasting could cease to be relevant to the majority of Canadians. Without public policy goals the private broadcasters would cease to be distinguishable from the U.S. broadcasters.

Both potential situations ignore the complexity of Canadian broadcasting which ranges from mass market big name prime time programming to niche programming which targets a much smaller demographic. Each broadcaster, whether public or private, conventional or specialty service, offers its audiences a range of programming. Throughout the day or the week audiences change and their tastes change. This is why you can find both the huge international success "The Tudors" and the more narrowly focused genealogy series "Who Do You Think You Are" on CBC. CTV currently is airing "Flashpoint", which is doing well on both CTV and on CBS, and the quirky sitcom "Robson Arms". Even a specialty broadcaster like Showcase has a balance of mass market and niche programming. It features the very popular "Trailer Park Boys" in the coveted 9pm slot preceded by older programs which will bring in a smaller audience for rerun viewing, such as "Intelligence" and "Cold Squad".

If private broadcasters are to focus on commercial programming only and public broadcasters are to focus on cultural programming only then who determines what is commercial and what is cultural? Is there room for a cultural program to become commercially successful and would it then have to change broadcasters in subsequent seasons? Must a commercial program have no cultural elements? How is "The Border", a show about policing the Canadian border on the CBC more cultural and less commercial than "The Guard", a show about the Coast Guard airing on Global? Both are distinctly Canadian stories set recognizably in Canadian locations, reflect a distinctly Canadian sensibility and have audience numbers in the same range of 700,000-800,000 per week. "Flashpoint" is the current commercial hit with a U.S. simultaneous broadcast and regular audience numbers hovering around 1 million viewers. "Flashpoint" is also clearly set in

Toronto with a Canadian approach to policing and as such meets the public policy goals of reflecting Canada back to the Canadian audience.

What about shared windows such as children's programming which might air first on an educational broadcaster and then on a private children's service such as Treehouse. "Renegadepress.com" started on only educational broadcasters and APTN but after a few seasons was able to bring Global on board as lead broadcaster. Would that project go to the public or the private fund or both? Too many questions are raised by this artificial distinction between cultural and commercial.

Principles of the CTF

So if splitting the CTF into two funds is not the answer then what is? Well, first – what is the problem that we are trying to address here? Is the CTF fulfilling its mandate? What is its mandate? The discussion needs to start from first principles. As stated above, the CTF was created to support hard to finance Canadian programming in support of the public policy goals of the *Broadcasting Act*. It is very important to remind ourselves that regardless of whether the funds are from the Department of Heritage or from the BDUs, they are intended to support the goals of the *Broadcasting Act*. Some of the specific goals worth mentioning are:

- The Canadian broadcasting system should “encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming”⁴.
- Each broadcasting undertaking “shall make maximum use, and in no case less than predominant use, of Canadian creative and other resources in the creation and presentation of programming”⁵.
- Canadian programming should be “varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes”⁶.

While none of the above goals preclude market or audience success they also do not require market or audience success. Financial success in particular is not the purpose of the *Broadcasting Act*. The Act's public policy goals acknowledge that market forces alone will not create an indigenous broadcasting system so it

⁴ s.3 (d) (ii) of the *Broadcasting Act*.

⁵ s.3 (f) of the *Broadcasting Act*.

⁶ s.3 (i) (i) of the *Broadcasting Act*.

is up to government initiative, with the assistance of all of the elements of the Canadian broadcasting system, to take steps to ensure that a high quality and varied Canadian broadcasting system exists. These goals recognize that the diverse Canadian audience will have a multitude of interests and requires that the Canadian broadcasting system be diverse enough to meet those interests. This is not and cannot be lowest common denominator programming. For every Canadian who wants to watch "The Border" there will be someone who wants to watch the documentary series "Hell's Angels". For every Canadian who wants to watch "Trailer Park Boys", there will be someone who wants to watch "Blood Ties". It is our responsibility to ensure that the varied needs of the Canadian audience can be met.

The CTF plays a key role in implementing the goals of the *Broadcasting Act*. Its funding and licence fee threshold requirements allows producers to produce better quality programming at higher budget levels that has a higher chance of success with audiences. The BPE system encourages broadcasters to allocate funds to those programs that they believe will be successful with audiences. Licence fee thresholds set by CTF encourages broadcasters to invest more in their programming. More funds available for programming means that more programs get produced than otherwise would. The volume of programs produced with CTF assistance means that there are job opportunities for Canadian talent and they have a chance to broaden their work experience and pursue their careers at home.

Let's talk for a minute about that talent pool. The WGC is obviously very concerned about growing and sustaining a domestic talent pool. The CTF has been instrumental in providing creative opportunities for many writers, directors and performers who have gone on to become stars both at home and in the U.S. Showrunners on Canadian prime time series all learned the ropes in the story departments of CTF-funded television series. Tassie Cameron ("Flashpoint"), Susin Nielsen ("Robson Arms"), Aaron Martin ("Best Years") and Shelley Scarrow ("Sophie") all came out of the story department of seven years (so far) of "Deglassi: The Next Generation". Six seasons of "Cold Squad" furthered the careers of Cal Coons ("Murdoch Mysteries") and Pete Mitchell ("The Guard"). The earlier series "Traders" furthered the careers of Hart Hanson ("Bones"), Peter Mitchell ("Cold Squad") and David Shore ("House"). In turn, each of these showrunners is now running story departments and hiring and training the next generation of talent. The pattern is clear though. Many long-running series with lots of job opportunities give rise to another generation of creative talents who then hire more writers and so on and so on and so on. Volume of work gives writers the chance to learn from experience and develop skills. Without the CTF there just would not have been the volume that would have allowed this creative growth. With even more volume, Canadian programming would have the chance to be even better and by anyone's standards more successful.

Development

Another factor in the creation of successful drama is development. Not only do writers need shelf space and work opportunities but they also need time and money to properly develop a project, see what works, write several drafts and finally produce the best possible script. The Department of Heritage understood this need when it made 'development' a Special Initiative which it required the CTF to fund as part of the Contribution Agreement between Heritage and CTF. However, the CRTC has repeatedly consigned all Special Initiatives to 'public money' to be funded by the government and in the last report only accessed by the public broadcasters. This ignores the importance that development has to all television programs regardless of how they are financed or where they are to be broadcast. The U.S. broadcasters know this well as they improve the odds in the high risk business of television by developing many more scripts than they produce. The more prepared the writing team is before production starts the greater the chance of success. For example, in the case of a television series there should be a bible, episodic outlines for each episode and three to five scripts being written by the showrunner and three to four additional writers before production commences. Once that train has started there is no slowing it down. At an average production budget of \$1.3 million per hour of drama, writing, rewriting and hiring new writers is a much more cost-effective way of ensuring an audience-pleasing production than producing it and finding out after all that money has been spent that the audience is not interested. Any amendment to the CTF should keep in mind that not only should development be maintained for all CTF television programs but in fact that level of development should be increased. More funded development means better television programs.

Without the CTF

It is hard to imagine the Canadian broadcasting system without the CTF. There are very few other reliable sources of financing for Canadian drama, variety, documentaries and children's programming. Broadcasters fund on average 33% of production budgets with the balance taken up by CTF (28.6%), federal and provincial grants and tax credits (26.9%), distributors (4.1%), foreign sales (2.5%), private funds (2.1%) and producer investment (2.4%)⁷. It is highly unlikely that any element of the marketplace would jump in to replace the CTF contribution. In fact, without the CTF licence fee thresholds it is unlikely that the broadcaster contribution would remain at 33% as their past practice is to generally pay only what they need to in order to trigger CTF. We have seen average licence fees increase as thresholds are increased but not before. The only other significant source of television financing is the benefit packages which are payable as a result of mergers and acquisitions. While several notable

⁷ Canadian Television Fund 2006-07 Annual Report

productions have received funding from benefits packages⁸ they are inherently unreliable and do expire. Benefits monies are not sources of reliable, predictable television funding.

We can imagine what the broadcaster schedules would be like if there was no CTF by looking at what programming is outside the CTF. Easy to finance categories like game shows, reality, lifestyle, news and sports are not funded by the CTF and can easily finance their budgets from the marketplace. This would mean more “Are You Smarter Than A Fifth Grader Canada” and “So You Think You Can Dance Canada” – slightly Canadianized versions of American programs.

This is not what Canadians want. In January 2008 the WGC, CFTPA, ACTRA, and DGC commissioned a poll asking Canadians about their attitudes toward Canadian programming. 78% of Canadians polled felt that it was important to have a choice of television programs that reflect Canadian society, values and perspectives and almost as many said that it was important to have programs that were distinct from American TV. This means 10 point Canadian dramas such “The Border”, “Regenesis”, “Little Mosque on the Prairie” and “Instant Star”. Canadians want more Canadian drama – not less.

Improving the CTF

The BPE system of the CTF has been very instrumental in not only getting shows like those named above produced but also in getting them promoted and seen by audiences. It is to a broadcaster’s financial benefit to provide consistent, well placed scheduling and aim for the biggest possible audience. The BPE system is based on complicated calculations of various factors which have been developed by the CTF staff after years of research. The WGC does not have the necessary expertise to make recommendations on the technical aspects of how the BPE envelopes are calculated. However we do feel that any adjustment of calculations should keep a few principles in mind:

- Conventional and specialty channels have different business models based on the different sizes of their audiences. Success for a specialty channel is based on cumulative viewing within a week where conventional is based upon the one airing. Consideration should also be given to audience measurement on non-traditional platforms such as VOD, S-VOD, streaming and download. Viewing patterns are changing so audience measurement needs to adapt.

⁸ “Flashpoint” was developed under the CTV Writers First benefits program, the early seasons of “Corner Gas” were financed by CTV’s benefits program and additional series of “Degraasi: The Next Generation” were licensed by CTV’s benefits program, among others.

- Specialty channels, educational channels and local channels are all dealing with smaller potential audiences. Success is a measure of how much of the potential audience was achieved. If necessary the available funds could be allocated between conventional and specialty services so that smaller broadcasters are competing with each other for the funds rather than going up against a conventional broadcaster.
- Broadcasters should be encouraged to licence more original programming and not be able to earn their BPE through the broadcast of repeats (except in the case of the limited repeats of the specialty services).
- Awards, positive reviews and fan activity are also measures of a successful broadcast.
- Renewals and longer episode orders are also indicators of audience success.
- While broadcasters are generally less concerned with international sales and other format sales (i.e. DVD, download etc.) they can be indicators of audience success.
- Broadcaster engagement should be encouraged with criteria that rewards above threshold licence fees, equity investment, promotional commitments and, where other platforms have been licensed, commitment to exploit on other platforms.

Digital Media

Increasingly, broadcaster success is also dependent on having a visible presence online and on mobile. The CRTC's research however shows that Canada is behind the U.S. in terms of digital media content that supports the broadcasting system. As the CTF is a tool to support the goals of the *Broadcasting Act*, it clearly has a role to play in financing more original digital media which is part of the Canadian broadcasting system. However, in this as in any other discussion of funding for digital media, the WGC is strongly of the opinion that funding for digital media must come from new sources and not from the existing pools of money. The existing program categories of drama, variety, documentary and children's programming struggle with the limited financing available. Should the existing television funding be cut for digital media, there would be fewer television programs produced. As digital media is meant to support the broadcaster and the television programs this would be counter-productive.

However should there be additional funds from Heritage or mandated by the CRTC then the WGC supports additional funding for digital media. This funding

could be handled in many different ways and the details are best worked out by CTF staff. However, the WGC proposes that funding for digital media should be folded in to the existing broadcast funding and be part of the BPE system. This would be part of a holistic approach to content that is better suited to how creators create content and viewers watch and interact with content. Currently budgets for development and production of content are being artificially separated between digital media and television broadcast. At times original digital content is being artificially linked to a broadcast version in order to obtain funding. If broadcasters had an envelope that they could access for digital only, digital and television or television only content, financing would be more closely aligned with how projects are being conceived and produced. A combined BPE would also mean that broadcasters would be encouraged to not only licence (with minimum thresholds) but also promote digital content in order to meet adapted audience success measures.

The Bottom Line

The CRTC did an impressive job with their Report to Heritage. There are many worthy recommendations contained in the Report such as higher broadcaster thresholds and limiting the amount of tax credits which can be part of the financing. But for us the bottom line is that the CTF needs to remain one fund with its current guidelines. It can be improved and the CTF has a past history of constantly trying to be better. The CTF, its board and staff, should be allowed to continue their process of improvement. While several of the BDUs have consistently objected to making a contribution to Canadian programming through the CTF the fact remains that they have an obligation to contribute to creation of Canadian programming under the *Broadcasting Act*.

The WGC strongly believes that the following principles should guide the CTF and any revisions to it:

- Support 10 point Canadian programming
- Support underserved programming categories drama, performing arts and variety, documentaries and children's
- Support development
- Encourage broadcaster commitment, better scheduling and higher licence fees
- Maintain an allocation of 60% of production funds to drama
- Maintain a CTF board made up of industry stakeholders governed by conflict of interest rules.

Most of all, the CTF should be one strong, efficient, cost-effective fund. We hope that the Department of Heritage continues its great support of the Canadian television industry by continuing to help the CTF be a better and stronger agency. As well, we urge the government not to let this review process hinder

the CTF's renewal. The television industry needs stability and room to grow and we are counting on this government to do the right thing by renewing the CTF.

We would be pleased to discuss any of the above topics with you further if you feel that it would be helpful. Thank you for taking the time to listen to our concerns.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Maureen Parker', with a stylized, flowing script.

Maureen Parker
Executive Director
Writers Guild of Canada

c.c.: National Council, Writers Guild of Canada
Konrad von Finckenstein, Chair, CRTC
Judith La Rocque, Deputy Minister, Canadian Heritage
Jean-Pierre Blais, Assistant Deputy Minister, Canadian Heritage
Ian Brodie, Chief of Staff, PMO
Paul Gratton, Chair, Canadian Television Fund
Members of the Board of the Canadian Television Fund
Valerie Creighton, President of the Canadian Television Fund