



Writers Guild of Canada

**WGC presentation to Standing Committee on Canadian
Heritage**

**re: Vertical Integration and Move to Digital Viewing
Platforms**

December 7, 2010

[Maureen Parker]

Good morning members of the Heritage Committee. My name is Maureen Parker and I am the Executive Director of the Writers Guild of Canada. Also with me today is Kelly Lynne Ashton, WGC Director of Policy. Thank you for inviting us.

The Writers Guild is the national association representing more than 2000 professional screenwriters working in English-language film, television, radio, and digital production in Canada. We are here before you today to talk about the changing infrastructure of the Canadian broadcasting system and its impact on the creation of Canadian content.

The Canadian broadcasting system is rapidly changing. Broadcast mergers in the last few years have resulted in

significant media consolidation. And acquisitions have led to vertical integration as cable and satellite operators, such as Shaw and Bell, have purchased broadcasters. Most recently we have seen the introduction of ‘over the top’ services such as Netflix and Apple TV. Though they are directly competitive with elements of the Canadian broadcasting system, these services are outside the jurisdiction of the CRTC because they are non-Canadian and because the legal definition of the Canadian broadcasting system is too narrow to include them.

The regulated players too, such as Rogers, Shaw and Bell, are also playing in the unregulated space. Cable and satellite operators have set up their own online broadcasting services offering film and television programming free to subscribers. As well, most broadcasters such as CTV and Shaw Media, have catalogues of their programming available for viewing online. However, because all of these services are unregulated, there is no obligation for them to carry or promote Canadian programming even though they are owned by regulated businesses.

Why are we concerned? Because Canadians, through their viewing behaviour, have expanded the traditional concept of

the Canadian broadcasting system to include these newer platforms. Canadians have not left broadcast television but they are increasingly choosing the convenience and portability of online viewing to supplement their broadcast television. According to the CRTC's latest Communications Monitoring Report, Canadians watch an average of 26 hours of television per week and this figure is fairly stable. Anglophone Canadians are spending an average of 14.5 hours per week online, two hours of which are spent watching TV online.¹ This is 'anywhere, any time' television viewing. However, the regulatory framework created by the *Broadcasting Act* has not kept up with consumer behaviour.

The CRTC created expenditure and exhibition requirements to ensure that Canadian broadcasters support Canadian programming. Without the CRTC's regulatory framework, Canadian audiences would not have had the opportunity to enjoy Canadian successes such as "Flashpoint", "Murdoch Mysteries" and "Heartland". We need a similar regulatory framework for the digital platforms which are now part of the Canadian broadcasting system.

¹ CRTC Communications Monitoring Report 2010. Note that Francophone Canadians spend 11.8 hours per week online and 1.3 hours per week watching tv online

The CRTC is representing the public interest to the extent of its reach. At the group licence renewal in April 2011 a new TV Policy will be implemented for the big three private broadcasters with specific programming expenditure requirements for drama and documentaries, among other things. We are optimistic that a return to an expenditure requirement will mean more Canadian drama on broadcast television. There is no guarantee however that this additional programming will also be available or easily accessible online.

[Kelly Lynne Ashton]

We also don't know that there will be sufficient money at the Canada Media Fund to adequately support the new programs funded under the new TV Policy. Each one of the CMF's programs is oversubscribed. You heard from the CMF that their revenues from the cable and satellite companies used to grow substantially each year but have now slowed to an expected growth rate this year of only 2% over last year's revenues. They expect this stagnation to only worsen as more people unplug from cable or downgrade to basic packages and take advantage of the opportunities to view content online. The CMF has been mandated to fund both

digital and television content, because this government has seen that Canadians are on both platforms and need to have the choice to see Canadian content on those platforms. Both broadcast and digital platforms should therefore be responsible for contributing to the financing of Canadian content.

Is it logical to treat a new media broadcaster such as Rogers On Demand Online (or RODO) differently from VOD? Both services offer Canadians the ability to watch film and television programming at the time of their choosing – the only difference is that one functions through the television set and the other through the computer. VOD services are required to make Canadian programming available and to help finance its production. Rogers VOD, for example, is required to ensure that not less than 5% of English feature films available are Canadian and not less than 20% of television titles are Canadian. RODO has no such obligation. Rogers VOD has an obligation to pay 5% of its gross revenues to a Canadian program production fund such as the CMF yet neither RODO nor Rogers as an ISP has to contribute to Canadian program production. The situation is

the same for all of the major cable and satellite providers, who have both online and VOD services.

And let's keep in mind that while Rogers, Bell and Shaw expressed concerns about the competitive threat of an unregulated Netflix or Apple TV, as ISPs they are benefitting from consumers increased bandwidth use due to these services as well as their own online services. In fact, while Rogers, Shaw and Bell promote their online services as free to subscribers, use of the services will cost subscribers more if they go over their bandwidth cap. If you watch a few tv shows a month, you will go over your cap. So Canadians are being enticed to use large amounts of bandwidth streaming television shows, some of which are supported by the CMF. And while the revenues to the ISP business units are increasing, they contribute nothing to the creation of the content.

[Maureen Parker]

In conclusion, we now have a Canadian broadcasting system which only partially supports the goals of the *Broadcasting Act* because it has been broken into regulated and unregulated systems. We encourage the government and

this Committee to think of the Canadian broadcasting system as one integrated system that can offer Canadians a wide variety of Canadian programming on any platform that they choose. To do otherwise is to undermine the goals of the *Broadcasting Act* for all Canadians.

Regulation is not a dirty word. It protects Canadians while ensuring balance between competing interests. We would like this Committee to include in your Report a recommendation that all Canadian elements of the Canadian broadcasting system, including ISPs and new media broadcasters, should be subject to regulation under the *Broadcasting Act* so that all fairly contribute to the creation and exhibition of Canadian programming.

We thank you for your time and look forward to answering any questions that you may have.