Writers Guild of Canada

December 10, 2018 **Filed Electronically**

Mr. Claude Doucet
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario
K1A 0N2

Dear Mr. Doucet:

Re: Part 1 Application, Reallocation of Tangible Benefits related to Broadcasting Decision CRTC 2010-782: Application 2018-0936-0 filed by Corus Entertainment Inc.

1. The Writers Guild of Canada (WGC) is the national association representing approximately 2,200 professional screenwriters working in English-language film, television, radio, and digital media production in Canada. The WGC is actively involved in advocating for a strong and vibrant Canadian broadcasting system containing high-quality Canadian programming.

2. In approving the transfer of effective control of Canwest Global Communications Corp.'s licensed broadcasting services to a wholly owned subsidiary of Shaw Communications Inc. in Broadcasting Decision 2010-782, the CRTC required Shaw to spend $23 million to convert analog transmitters outside mandatory markets to digital within five years as part of the tangible public benefits package approved in the decision. Corus assumed responsibility for paying any remaining benefits funds when it acquired control of Shaw Media's licensed broadcasting services in Broadcasting Decision CRTC 2016-110, dated March 23, 2016.

3. In Broadcasting Decision CRTC 2016-91, dated March 9, 2016, the Commission granted Shaw an extension to August 31, 2019 to spend remaining funds under the analog-to-digital transmitter conversion benefits stream. As of August 31, 2017, $20,112,509 of the $23 million under this benefits stream had been spent. When additional funds spent in the 2017-2018 broadcast year and funds allocated in the current broadcast year are factored in, Corus reports that $2,365,774 of the $23 million originally allocated to this benefits stream remains unspent.

4. The WGC takes no position on Corus electing to remove the 44 rebroadcasting transmitters listed in Appendix A of its Part 1 Application from the television licences with which they are associated. The WGC **opposes**, however, Corus' proposed reallocation of the $2.4 million in tangible benefits remaining to be spent in the analog-to-digital transmitter conversion benefits stream because it is

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inconsistent with the Tangible Benefits Policy and disregards prior Commission direction to Corus, as we understand it, on how any unspent tangible benefits funds should be reallocated.

Corus' Proposed Reallocation of Remaining Tangible Benefits

5. The Tangible Benefits Policy[1] states the following:

> Accordingly, to ensure that future tangible benefits are streamlined, incremental, non-self-serving and directed mainly to the production of Canadian programming, the Commission will require the following:
>
> - at least 80% of all tangible benefits relating to changes in the effective control of licensed television undertakings shall be allocated to the funds unless a compelling case is made that other measures could better meet the public interest; and
>
> - of this amount, at least 60% shall be allocated to the [Canada Media Fund] (CMF) and no more than 40% to the CIPFs unless a compelling case is made that another allocation formula could better meet the public interest.[2]

6. In Broadcasting Decision CRTC 2016-91, at paragraph 22, the Commission informed Shaw that should it not be able to spend the entirety of its tangible benefits relating to the analog-to-digital transmitter conversions, it should submit, in a timely manner, an alternate proposal to expend the required tangible benefits contributions **in a manner consistent with the tangible benefits policy in place at the time of submission**. (emphasis added)

7. Of the $2.4 million in benefits funds remaining to be spent under the analog-to-digital transmitter conversion benefits stream, Corus proposes to reallocate just $892,771.16 or 38% to the CMF, which is inconsistent with the Tangible Benefits Policy in place at the time of Corus' Part 1 Application.

8. Corus' reallocation proposal appears to assume that given that the analog-to-digital transmitter conversion benefits stream fell under non-programming related benefits (also known as social or discretionary benefits) in the original tangible benefits package approved by the Commission in Decision 2010-782, its proposed reallocation could also flow entirely to discretionary initiatives.

9. That is not the way the WGC interprets the Commission's direction to Shaw/Corus noted in bold in paragraph 6 above. In Decision 2016-91 the Commission made reference to "the tangible benefits policy", meaning the policy as a whole, not specifically the discretionary spending portion of the policy. To ensure that tangible benefits are "directed mainly to the production of Canadian programming," the Tangible Benefits Policy requires that at least 80% of all tangible benefits shall be allocated to the CMF/Certified Independent Production Funds (CIPFs) unless a compelling case is made that other measures could better meet the public interest. The WGC submits that Corus has not made such a compelling case.

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[1] Broadcasting Regulatory Policy CRTC 2014-459 (the Tangible Benefits Policy), September 5, 2014.
[2] Para. 24.

10. Regardless of the Commission's intent in Decision 2016-91 relating to how any unspent funds should be reallocated, the WGC submits that the $2.4 million in benefits funds remaining to be spent under the analog-to-digital transmitter conversion benefits stream should predominantly support the production of Canadian programming, consistent with the Tangible Benefits Policy.

11. This would be consistent with past CRTC decisions. For example, in a letter decision dated November 29, 2013[3] addressing various requests by Shaw related to the local television satellite solution benefits stream of the tangible benefits package approved in Decision 2010-782, the CRTC reiterated its ruling made in Decision 2010-782 that any surplus funds left in this benefits stream must be redirected to the development, creation, and promotion of incremental, independently produced programs of national interest. This, despite the fact that this benefits stream had initially fallen under non-programming/social benefits.

12. Moreover, the WGC submits it would be inappropriate for the Commission to approve Corus' proposed reallocation of remaining benefits funds when it is not known at this time how some of the proposed recipient organizations/institutions will use the benefits funds. Corus proposes to submit to the Commission by April 1, 2019, well after the deadline to file comments on its Part 1 Application, a detailed report on how some of the organizations/institutions will utilize the benefits funds. That information should have been available as part of Corus' Part 1 Application so stakeholders could comment on it.

13. Accordingly, the WGC submits that the Commission should direct Corus to reallocate the remaining $2.4 million in benefits funds under the analog-to-digital transmitter conversion benefits stream predominantly to the production of Canadian programming consistent with the Tangible Benefits Policy (i.e., at least 80% to the CMF/CIPFs).

Timeline to Spend Remaining Benefits Funds

14. At paragraph 16 of its Supplementary Brief accompanying its Part 1 Application, Corus states the following:

> While the benefits will be spent in full by August 31, 2019, we propose allocating the benefits amounts in a manner that will support these organizations for a five-year period to ensure there is sustainable support over time which is key in ensuring continuity among both established and up-and-coming creators.

15. The WGC is confused by this statement and what Corus is actually proposing. If Corus is proposing to allocate remaining benefits amounts over a five-year period then the benefits will not in fact be "spent in full by August 31, 2019," as Corus suggests.

16. The WGC notes that the funds under the analog-to-digital transmitter conversion benefits stream were originally supposed to be spent within five years of Decision 2010-782 (i.e., by August 31, 2015). As noted above, the Commission has already granted Shaw/Corus an extension to August 31, 2019 (an additional four years) to spend the remaining funds under this benefits stream. In our view, giving Shaw/Corus nine years to pay these benefits is neither fair nor appropriate.

[3] See https://crtc.gc.ca/eng/archive/2013/lb131129.htm.

17. As such, we urge the Commission to require Corus to spend the remaining $2.4 million in benefits funds by no later than August 31, 2019, consistent with the Tangible Benefits Policy.

Yours very truly,

Maureen Parker
Executive Director

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