



February 20, 2020

Filed Electronically

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

Dear Mr. Doucet:

**Re: Broadcasting Notice of Consultation CRTC 2019-379: Canadian Broadcasting Corporation/
Société Radio-Canada – Licence Renewal**

The Writers Guild of Canada (WGC) is the national association representing approximately 2,400 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.

The WGC **supports** the renewal of the broadcasting licences of the English-language services of the Canadian Broadcasting Corporation (CBC) in this proceeding, subject to the following comments. The WGC is a guild of members who work in English-language media and, as such, we confine our comments to the English-language services, and primarily English-language audiovisual services.

Executive Summary

- ES.1 As the national public broadcaster of Canada, the CBC holds a special and unique position in the Canadian broadcasting system, separate and distinct from private, commercial broadcasting. Public broadcasting is internationally recognized as filling a particular role for the country and the audiences it serves. The values of public engagement and participation, education and access to information, shared Canadian consciousness and identity, innovation and risk-taking, and connecting citizens to each other and to the world remain central and vital to Canadian public life. The CBC's mandate aligns with these values, and is as relevant now as ever, particularly as many Internet-based actors seemingly work to erode them.
- ES.2 The WGC broadly agrees with the objectives and outcomes identified by the Commission. We agree the CBC should produce, commission, and make available audio and audio-visual content

on multiple platforms that meets the needs of and reflects the diverse Canadian population, including those from the following groups: women, Indigenous groups, ethnic and multicultural groups, official language minority communities (OLMCs), children and youth, Canadians with disabilities, and LGBTQ2 Canadians. We also agree that it is therefore incumbent on the CBC that it contribute to a vibrant Canadian broadcasting system with the continued creation of high-quality Canadian audio-visual and audio content for both domestic and international consumption, and that such content should be available and discoverable in Canada and abroad on various platforms and services in a balanced fashion. The WGC wholeheartedly agrees that news and information programming is essential to the support of Canadian democracy. We also believe, however, that cultural and entertainment programming plays a key role as well, by dramatizing socio-political issues and providing social commentary and perspective on the factuality that news provides.

- ES.3 With respect to the production of Canadian programming, the WGC believes this can be supported in three key ways. First, the CBC can work to ensure that spending on Canadian programming is and remains its top priority, held consistently at or above all other priorities. Second, the CBC can work to ensure that it maximizes Canadian talent in key creative roles, as recognized by the 10-point system. The CBC should ensure, particularly in the programming of national interest (PNI) genres, that all screenwriters and showrunners on the programming it commissions are Canadian. Third, the CBC should continue to improve its capacity to take creative risks.
- ES.4 With respect to the regulatory approach for the CBC's services, the WGC believes that what the CBC proposes with respect to regulation of multiple platforms it operates, including online platforms, does not materially contribute to the fulfillment of its mandate and of the objectives of the Act. The CBC's proposal appears to seek reductions in Canadian programming obligations for its traditional broadcasting services, the CBC television network in particular, while proposing cross-platform goals that are slightly higher than its existing obligations for traditional services alone. The nature of those obligations, however, are in the form of exhibition hours, and are generally not required to be original, first-run (OFR) hours. At the same time, the CBC seeks to treat an hour's worth of exhibition during prime time on its main television network as equivalent to an hour's worth of content being placed online. The result is the suggestion that an hour of programming aired at 8pm on Tuesday night on the CBC television network is the same as an hour of programming—or an hour's worth of shorter-form programming, in aggregate—placed on CBC Gem, regardless of any other factor such as production value/quality, promotion and discoverability, or target audience. The WGC disagrees that the two things are equivalent, either in theory or in practice, and the CBC does not provide data to support its view to the contrary. The CBC also does not provide data to demonstrate whether such an approach would actually result in a greater commitment to Canadian programming on a multi-platform basis than it does now. In the WGC's view, what the CBC appears to be seeking is a regulatory framework that is substantially similar to the group-based licensing approach applicable to the English-language private broadcasters, except that it would focus on exhibition requirements rather than expenditures. The WGC believes that if what the CBC truly seeks is the flexibility to allocate resources across multiple platforms, as is currently provided to the private broadcasters, then it would be better to simply do so with respect to expenditure requirements, not exhibition requirements. Otherwise, the CBC should retain platform-specific requirements, as it does now.

A comprehensive, multi-platform regulatory regime would be better considered as part of a larger policy proceeding, involving all broadcasting players, presumably under new legislation. This will ensure both a more complete approach to online content, and will avoid the possibility of later pressure to apply the CBC model to private entities, which differ greatly from the public broadcaster.

- ES.5 The WGC agrees with the Commission that any regulatory requirements that it imposes on the CBC should be accompanied by a clear, transparent, and comprehensive measurement framework that ensures the Corporation is held accountable for its programming. The WGC provides a number of proposals with respect to measurement, data collection and reporting, both with respect to the current proceeding and to measuring the CBC's performance in the future.
- ES.6 With respect to proposed amendments to two conditions of licence listed in Appendix 2 of the Notice of Consultation, applicable to Application 2019-0282-5 – English-language audio-visual services, specifically, “Programs of national interest” and “Children’s programming”, the WGC opposes these proposals, for the same general reasons that we oppose the broad regulatory approach proposed by the CBC. The CBC seeks to treat hours on any platform as broadly the same, while we believe that is not the case, the proposed amendments could result in simple repetition of programming across platforms, and we lack a baseline of what CBC is doing now in order to contextualize this proposal.
- ES.7 The WGC wishes to appear at the public hearing.

Nature and Mandate of the CBC

1. As the national public broadcaster of Canada, the CBC holds a special and unique position in the Canadian broadcasting system. Public broadcasting is internationally recognized as filling a particular role for the country and the audiences it serves. As the WGC noted in the previous CBC renewal proceeding,¹ the United Nations Educational, Scientific and Cultural Organization (UNESCO) has described public broadcasting as follows:

Neither commercial nor State-controlled, public broadcasting's only *raison d'être* is public service. It is the public's broadcasting organization; it speaks to everyone as a citizen. Public broadcasters encourage access to and participation in public life. They develop knowledge, broaden horizons and enable people to better understand themselves by better understanding the world and others.

Public broadcasting is defined as a meeting place where all citizens are welcome and considered equals. It is an information and education tool, accessible to all and meant for all, whatever their social or economic status. Its mandate is not restricted to information and cultural development-public broadcasting must also appeal to the imagination, and entertain.

But it does so with a concern for quality that distinguishes it from commercial broadcasting. Because it is not subject to the dictates of profitability, public broadcasting must be daring

¹ Broadcasting Notice of Consultation CRTC 2011-379

and innovative, and take risks. And when it succeeds in developing outstanding genres or ideas, it can impose its high standards and set the tone for other broadcasters. For some, such as British author Anthony Smith, writing about the British Broadcasting Corporation—seen by many as the cradle of public broadcasting—it is so important that it has “probably been the greatest of the instruments of social democracy of the century.”²

2. The WGC considers this statement to be as relevant now as ever. The values of public engagement and participation, education and access to information, shared Canadian consciousness and identity, innovation and risk-taking, and connecting citizens to each other and to the world remain central and vital to Canadian public life. Similar values are expressed in the CBC’s legislative mandate, set out in section 3(1)(m) of the *Broadcasting Act* (the Act), and are reiterated by the Commission in the Notice of Consultation of this proceeding (the Notice). These include providing programming that: is predominantly and distinctively Canadian;³ reflects Canada and its regions to national and regional audiences;⁴ actively contributes to the flow and exchange of cultural expression;⁵ contributes to shared national consciousness and identity;⁶ and reflects the multicultural and multiracial nature of Canada,⁷ among other worthy objectives.
3. And while some have argued over the past decade or so that the Internet could serve these functions as well or better than public broadcasting, recent events have made it increasingly clear that this is not the case. In 2018, Freedom House subtitled their annual report, “Freedom on the Net”, “The Rise of Digital Authoritarianism.”⁸ In it, they state:

Disinformation and propaganda disseminated online have poisoned the public sphere. The unbridled collection of personal data has broken down traditional notions of privacy. And a cohort of countries is moving toward digital authoritarianism by embracing the Chinese model of extensive censorship and automated surveillance systems. As a result of these trends, global internet freedom declined for the eighth consecutive year in 2018.⁹

4. Freedom House’s 2019 report was subtitled, “The Crisis of Social Media.”¹⁰ It begins:

Internet freedom is increasingly imperiled by the tools and tactics of digital authoritarianism, which have spread rapidly around the globe. Repressive regimes, elected incumbents with authoritarian ambitions, and unscrupulous partisan operatives have exploited the unregulated spaces of social media platforms, converting them into instruments for political distortion and societal control. While social media have at times

² “Public Broadcasting: Why? How?”, 2001, World Radio and Television Council, UNESCO

³ Section 3(1)(m)(i)

⁴ Section 3(1)(m)(ii)

⁵ Section 3(1)(m)(iii)

⁶ Section 3(1)(m)(vi)

⁷ Section 3(1)(m)(viii)

⁸ Freedom House, *Freedom on the Net: The Rise of Digital Authoritarianism*,

<https://freedomhouse.org/report/freedom-net/freedom-net-2018/rise-digital-authoritarianism>

⁹ *Ibid*

¹⁰ Freedom House, *The Crisis of Social Media*, <https://www.freedomthenet.org/report/freedom-on-the-net/2019/the-crisis-of-social-media>

served as a level playing field for civic discussion, they are now tilting dangerously toward illiberalism, exposing citizens to an unprecedented crackdown on their fundamental freedoms. Moreover, a startling variety of governments are deploying advanced tools to identify and monitor users on an immense scale. As a result of these trends, global internet freedom declined for the ninth consecutive year in 2019.¹¹

5. It seems increasingly evident that not only has the Internet and its dominant platforms to date failed to live up to their early promise of supporting and promoting Canadian values such as democracy, freedom, and a shared sense of community, but many of those very platforms and services are now undermining those values. The challenges posed by the digital revolution are complex, as are, no doubt, the solutions. But public broadcasting promises to be one of our best tools to respond, and a key reason that the CBC is more relevant than ever.
6. The WGC would also stress that public broadcasting is, and must continue to be, distinguished from private, commercial broadcasting. Private broadcasters are part of the Canadian broadcasting system as established and regulated under the Act and, as such, have cultural and social obligations pursuant to that regulation. Ultimately, however, private broadcasters are profit-seeking entities above all else, and their programming decisions are driven by commercial concerns. The CBC should not be driven by those same concerns. As noted in the passage from UNESCO above, public broadcasting must be daring and innovative, and take risks. It must not seek audience viewing numbers for their own sake, but must ultimately provide socially and culturally meaningful programming as its top priority. Naturally, the CBC must also remain relevant to Canadians, and that includes engaging them in significant numbers. Yet in doing so, the WGC believes it must ultimately hold its role as a national public broadcaster firmly in sight.
7. The WGC recognizes that in addition to its legislative mandate and conditions of licence (COLs) as prescribed by the Commission, there are other factors that play a major role in influencing how the CBC operates. Chief among them is the CBC's funding allocation by Parliament. As the Commission is well aware, the CBC has seen its funding allocation generally decline over the past several decades, as funding cuts were made by multiple federal governments. A recent report by the Forum for Research and Policy in Communications said that, when considered in terms of daily life in Canada, the funding received from Parliament by CBC for its operations has decreased 54% since 1985, from 14 cents per person per day in 1985, to 6 cents per person per day in 2019.¹² As a result, the CBC is one of the most poorly funded public broadcasters in the world, ranked third from the bottom on a per capita basis amongst 18 OECD countries in 2016.¹³ In 2016, the Liberal government led by Prime Minister Justin Trudeau committed an additional \$150 million annually in funding to the CBC. This was very welcome funding, and represented the first meaningful, longer-term increase in the CBC's parliamentary appropriation in decades. However, the CBC's overall funding still pales in comparison to the amount received by more robustly funded public broadcasters like the British Broadcasting

¹¹ *Ibid*

¹² Forum for Research and Policy in Communications (FRPC), *An Analysis of CBC's financial history from 1937 to 2019: We tried to follow the money; Frodo had it easier*, Research paper (Ottawa, February 2020), Synopsis, <http://frpc.net/wp-content/uploads/2020/02/Public-funding-of-CBC-operations-2020-4-February.pdf>.

¹³ Broadcasting and Telecommunications Legislative Review Panel, *Canada's communications future: Time to act*, Fig. 3-11, <https://www.ic.gc.ca/eic/site/110.nsf/eng/00012.html>.

Corporation, which currently obtains around \$6.34 billion CAD annually under a licence fee regime.¹⁴ In the meantime, advertising revenues for conventional television broadcasting in Canada continue to be challenged, further impacting the CBC's overall revenues,¹⁵ while popular sports programming that used to play a larger role in cross-subsidizing other programming has risen in value, in some cases beyond the CBC's reach.

8. Nevertheless, the recent funding increase from the Trudeau Liberals is meaningful and reportedly permanent.¹⁶ As we explain in greater detail below, the WGC hopes and expects the CBC to strive for ever more, ever better programming, including in the category of "programs of national interest" (PNI), including the genres of drama and long-form documentary.

Objectives and Outcomes

9. At paragraph 12 of the Notice, the Commission sets out the general outcomes that it proposes to seek in this proceeding. These include four overarching programming objectives, from reflecting the diverse needs and interests of Canadians and supporting content creators, to ensuring that programming is accessible and discoverable, while contributing to democratic life in Canada. The Commission also seeks to establish a regulatory approach that takes into account the CBC's multiple platforms, including both traditional and online platforms, and to create a measurement framework that ensures that the CBC remains transparent and accountable.
10. The WGC broadly agrees with all of these outcomes, which provide a good framework for approaching the complex and multifaceted nature of the CBC's mandate and performance. The WGC will address each in turn, with varying detail and emphasis given the WGC's nature, membership, expertise, and experience.

Programming Objectives: Reflection of Canadians, including diversity groups

11. As stated in the Notice:

By virtue of its activities and important contributions to meeting the broader objectives of the Act, the Corporation should produce, commission and make available audio and audio-visual content on multiple platforms that meets the needs of and reflects the diverse Canadian population, including those from the following groups: women, Indigenous groups, ethnic and multicultural groups, official language minority communities (OLMCs), children and youth, Canadians with disabilities, and LGBTQ2 Canadians).¹⁷

¹⁴ Statista, *Licence fee income of the BBC in the United Kingdom (UK) from 2010 to 2019*, <https://www.statista.com/statistics/284705/the-bbc-s-licence-fee-income-in-the-united-kingdom-uk/>.

¹⁵ CRTC, *Communications Monitoring Report 2019*, Fig. 6.17.

¹⁶ Denis Carmel, *Just to be clear, that boosted CBC funding is permanent*, CARTT, December 12, 2019, <https://cartt.ca/just-to-be-clear-that-increased-cbc-funding-is-permanent/>.

¹⁷ Para. 17.

12. The WGC agrees with this statement. The WGC also agrees with the Commission that, “diversity groups should be reflected in discoverable content on all of the Corporation’s traditional and online platforms and services.”¹⁸
13. Given the limited resources of the WGC, we are not able to provide the Commission with data or other quantitative information examining how the CBC has performed in this respect. However, we support the principles of diversity and representation of all Canadians by the public broadcaster, and would be broadly supportive of measures to advance this principle further.

Programming Objectives: Production of Canadian programming

14. As stated in the Notice:

The Corporation has an extensive in-house capacity to produce Canadian audio-visual and audio content as well as extensive partnerships with Canada’s independent production community and content creators. It is therefore incumbent on the Corporation that it contribute to a vibrant Canadian broadcasting system with the continued creation of high-quality Canadian audio-visual and audio content for both domestic and international consumption.¹⁹

15. The WGC agrees with this statement. It is through its Canadian programming that the CBC primarily and fundamentally furthers its mandate, and it is therefore through its contribution to the creation of such programming that the CBC’s role stands out, particularly given the challenging circumstances of content production for Canada’s small market.
16. There are several ways that the CBC can continue to support this objective. First, the CBC can work to ensure that spending on Canadian programming is and remains its top priority, held consistently at or above all other priorities. In our view, the financial investment in programming bears the closest correlation to the quality of the programming that results. It remains generally true that the resources needed to make high-quality programming—more talent, more labour, more money, and more time—are all things that result from a greater financial investment. More money at the development stage buys more time to develop characters and storylines, write drafts, rewrite them, rewrite some more, and deliver top-quality, polished scripts. More money in production buys more and more highly experienced cast and crew, bigger and better sets, more cutting-edge technology, better special effects, and more time to plan, rehearse, and execute a well-developed vision. In so many ways that matter, increased financial investment results in increased changes for quality and success.
17. Second, the CBC can work to ensure that it maximizes Canadian talent in key creative roles, as recognized by the 10-point system.²⁰ In particular, the CBC should ensure, particularly in the PNI genres, that all screenwriters and showrunners on the programming it commissions are Canadian.

¹⁸ Para. 18.

¹⁹ Para. 20.

²⁰ Canadian Audio-Visual Certification Office (CAVCO), *Canadian Film or Video Production Tax Credit (CPTC) Program Guidelines*, April 2, 2012, <https://www.canada.ca/content/dam/pch/documents/services/funding/cavco-tax-credits/canadian-film-video-production/cptcGuide-eng.pdf>, sections 4.02 and 4.03. The Commission uses the

18. Television shows bear the stamp of their creators—of an authorial voice or voices and of individual artistry. In serial dramatic television in particular, that voice is the screenwriter:

Television is a writer's medium. Always has been.... Great dramatic television is serialized; the stories are ongoing, often from season to season, weaving a vast, multiple-hour tale. It is the novel to film's short story.

And in television, the actual telling of the story is everything—the narrative flow of that story and the character development within that story solidify greatness, if present.²¹

19. At the centre of the writing process is the showrunner. A showrunner is the chief custodian of the creative vision of a television series whose primary responsibility is to communicate the creative vision of that series—often from the pilot episode through to the finale. The showrunner concept emerged in the U.S. in the 1980s, where it has become closely associated with the current “Golden Age” of television, and it has since expanded internationally, including to Canada. Showrunners are writer-producers who control and guide the creative vision of the show. Showrunners are fundamentally both writers and producers, and they creatively control dramatic television production.
20. Yet over the past several years, dwindling opportunities for Canadian writers in Canada, combined with a booming content sector in the United States, has resulted in a massive drain of Canadian creative talent out of the country. From the WGC’s perspective, this has reached a crisis level. Currently, the WGC’s largest membership region is Toronto, but its second-largest region, running not far behind, is Los Angeles. That is worth emphasizing. The WGC is a guild of Canadian screenwriters, yet more of our members are working out of an American city than out of Montreal, Vancouver, or anywhere else in this country other than Toronto. This represents a generational loss of Canadian screenwriters, most of whom we are likely never to get back.
21. Canadian screenwriters and showrunners provide the Canadian authorial voice of television programming, particularly in the PNI genres of drama and long-form documentary. This is consistent with section 3(1)(d)(ii) of the Act, which states that the Canadian broadcasting system should, among other things, “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...”. It is also consistent with the legislative mandate of the CBC. As stated at section 3(1)(m) of the Act, the programming provided by the CBC should “be predominantly and distinctively Canadian”²² and “actively contribute to the flow and exchange of cultural expression,”²³ two things which are done primarily, if not exclusively, by Canadian creators in key creative roles, screenwriters in particular. The CBC can further its support for Canadian programming and Canadian creators by ensuring that all such programming is Canadian-written, irrespective of whether other certification or funding rules permit otherwise.

same scale—see *Guide to the CRTC Canadian Program Certification Application Process*, <https://crtc.gc.ca/canrec/eng/guide1.htm#s9t>, section 9, *Key creative positions*.

²¹ Tim Goodman, *Critic's Notebook: The Rise of the TV Auteur? No Thanks*. *The Hollywood Reporter*, October 10, 2018, <https://www.hollywoodreporter.com/bastard-machine/critics-notebook-rise-tv-auteur-no-thanks-1150887>.

²² Section 3(1)(m)(i).

²³ Section 3(1)(m)(iii).

22. Also, as discussed in greater detail below, we further submit that the CBC should publicly report information on whether key creative roles such as showrunner, writer, director, and all other key creative roles currently subject to the CAVCO 10-point scale, are occupied by Canadians.²⁴
23. In addition to generally supporting the production of Canadian programming, this proposal also responds to the Commission's Q10 in the Notice. The CBC provides support to content creators by, among other things, commissioning content from them, thereby providing creative opportunities to tell Canadian stories as well as employment that financially supports them through the development of their careers. This should continue to the greatest possible degree.
24. Third, the CBC should continue to improve its capacity to take creative risks. We note that the expert panel of the Broadcasting and Telecommunications Legislative Review has recently released its final report, *Canada's Communications Future: Time to Act* (the BTLR Report).²⁵ In this report, the panel noted in relation to the CBC that, "being successful requires not only significant resources but also considerable risk taking, innovation, and experimentation,"²⁶ and recommends that the *Broadcasting Act* be amended to add "taking creative risks" to the mandate of CBC/Radio-Canada.²⁷
25. The WGC agrees, and submits that such a recommendation can be advanced now, in the current proceeding, independently of whether or not it is ultimately adopted into legislation as proposed in the BTLR Report.

Programming Objectives: Access to and distribution of Canadian programming

26. In the Notice, the Commission states its view that, in regard to access to and the distribution of Canadian programming, the CBC should, among other things, ensure it is available and discoverable in Canada and abroad on various platforms and services in a balanced fashion.²⁸
27. The WGC will address how this intersects with the CBC's regulatory framework on our detailed comments on that subject below. In general, however, the WGC broadly supports this statement by the Commission, and agrees that access to Canadian programming by all Canadians should continue to be an objective of the CBC.

Programming Objectives: Role of programming in democratic life

28. In the Notice, the Commission points out the importance that news and information programming plays in supporting democracy and civic engagement in Canada. "Verifiable, reliable and trusted news

²⁴ Consistent with the eligibility requirements for the Canadian Film or Video Production Tax Credit (CPTC), as well as the Commission's own certification rules, the term "Canadian" should be defined as a person who is, at all relevant times, a Canadian citizen as defined in the *Citizenship Act*, or a permanent resident as defined in the *Immigration and Refugee Protection Act*.

²⁵ Broadcasting and Telecommunications Legislative Review Panel, *Canada's communications future: Time to act*, <https://www.ic.gc.ca/eic/site/110.nsf/eng/00012.html>.

²⁶ Section 3.7.1.

²⁷ Recommendation 80.

²⁸ Para. 22.

and information made from a Canadian perspective is of paramount importance for Canadians to engage constructively with their national institutions be they public, not-for-profit or private,” the Commission notes.²⁹ The Commission’s questions that follow in the Notice refer to news and information programming, as well as to emergency alerts.

29. The WGC wholeheartedly agrees that news and information programming is essential to the support of Canadian democracy. We also believe, however, that cultural and entertainment programming plays a key role as well, by dramatizing socio-political issues and providing social commentary and perspective on the factuality that news provides.
30. This point was most aptly expressed by the late Denis McGrath, Canadian screenwriter and former WGC Council member. In his 2016 commentary, “When your Moral Compass doesn't point True North”, Denis points out how culture and social issues intersect:

In 1983, Doris Roberts and James Coco appeared in an episode of the freshman season of the ground breaking medical drama *St. Elsewhere*. The episode, “Coco and Arnie,” would eventually net both actors Emmy Awards for their portrayals of an aging homeless couple. But the impact went far beyond the red carpet. Coco and Arnie caused shockwaves, sparked conversations, and helped to launch a shift in how people thought about the problem of homelessness.

It’s no surprise that TV influences social policy. It comes into our homes, and is watched – even in our age of declining audience share – by millions of people every night. Millions also pick up a newspaper, or buy a CD or musical recording, but a middling show draws more viewers than all but the top bestselling book. It’s not hard to reach for examples of TV drama’s influence. It’s said that Dennis Haysbert’s portrayal of wise, steady David Palmer on the first seasons of *24* helped pave the way for Barack Obama. *Glee* helped shape views on sexuality and bullying. *Will and Grace* did more to mainstream gayness than a hundred well-intentioned Sundance indies. And it’s not like this is a new phenomenon. Go back beyond *St. Elsewhere*, and you have *James at 15*, *Roots*, and the sitcoms of Norman Lear, sparking conversations in living rooms across the United States.

Though there is a very vocal cohort who love nothing better than to deride it at each turn, Canadian TV has not been immune to this phenomenon. *Intelligence* dealt with privacy issues, drug policy and Canada’s relationship with the U.S. in a compelling way. *DaVinci’s Inquest* showed the side of Vancouver that hasn’t been seen before. *Prairie Giant* and *Trudeau* explored our political history, *Slings & Arrows’* loving portrayal of Stratford not only made high art a royal romp, it attracted worldwide remakes, including one that was one of Brazil’s highest rated shows. And whatever you think of *Little Mosque on the Prairie*, it was an important milestone in normalizing and de-othering Muslim communities in Canada. Look at the U.S. today – it’s still not ready for the joking, gentle, normal portrayal of that much-maligned CBC sitcom. They tried a version of it a couple seasons ago, and it was utterly painful – one terrorist joke after another.

²⁹ The Notice, para. 24.

I once worked for a noted Canadian documentary producer who was making his first foray into producing TV drama. We were doing an episode of a series that tackled an issue that he'd previously explored in one of his docs. I pointed out that if you added up all the people who screened his doc at festivals and on Newsworld, the drama treatment we were doing would reach ten times that audience in a single night. And it did.

Stories reach people. Lots of people. So they matter.³⁰

31. Denis McGrath goes on to cite survey data showing what many Canadians already know: That public opinions on a variety of issues differ markedly between Americans and Canadians, from same-sex marriage and assisted suicide to drug use and abortion. Denis continues:

Why is that important? Because, in addition to sparking social conversations, TV programs have the ability to reflect a society, and thereby strengthen common values and community. There's something powerful about seeing something normalized by being portrayed on screen as a matter of course.

This is a cultural argument for telling your own stories that has been out of vogue in Canada for a decade, as Conservative values (which you'll notice in the Abacus survey, diverge a lot from the Canadian majority) held sway.

A Canada that does not make space for its own storytellers and programs is a country that reflects issues or attitudes that are not in step with the people. In short, you're inculcating people with narratives that are at odds with what society thinks. It's profoundly alienating, and potentially distorting. Is crime really that high? Is immigration bad? Is that family with two kids less than you because the parents aren't married? Everyone says that they're not influenced by media, though study after study seems to demonstrate otherwise. But on a more basic level, the philosophical question I have is simple. What GOOD is it to give over the vast majority of your broadcast timeslots and media space to programs that don't reflect an accurate moral compass of your people? What good comes from framing issues that are not controversial here, as still deeply divisive, because your entertainment provider hasn't caught up?³¹

32. The WGC agrees. So, while we consider news and factual programming as an important pillar of supporting democratic life in Canada, we should see a significant role for cultural and entertainment programming as well.

Regulatory Approach for the CBC's Services

33. The WGC believes that a key element for discussion in this proceeding is the multi-platform regulatory approach proposed by the CBC. As stated in the Notice:

³⁰ Denis McGrath, *Commentary: When your Moral Compass doesn't point True North*, July 14, 2016, <https://www.facebook.com/notes/dmc-grath/commentary-when-your-moral-compass-doesnt-point-true-north/10154304125224935/>

³¹ *Ibid*

The Commission's current regulatory approach regarding the Corporation relies on specific, quantitative conditions of licence focused entirely on its traditional television and radio services. In recent years, however, the Corporation has adopted a multi-platform approach to providing programming. While it continues to provide programming on conventional television and radio stations, the Corporation also provides a significant amount of programming on multiple online platforms. The Commission is therefore faced with the question of whether the regulatory approach for the Corporation should continue to focus exclusively on the traditional means for delivering content, as it has done in the past, or whether a new approach should be adopted to consider aspects of the Corporation's strategy to adapt to the evolving viewing and listening habits of Canadians through the delivery of content across multiple platforms.³²

34. The CBC has addressed this issue in its licence renewal application. As summarized in the Notice:

In its application, the Corporation expressed the view that the regulatory framework should be better aligned with changes in viewing patterns. Consequently, it is proposing an approach to content commitments for its English-and French-language television networks that takes into account, for the very first time, both traditional and online exhibition of audio-visual content. More specifically, in order to "recognize and encourage the exhibition of audio-visual content on online platforms," the Corporation is proposing the following:

- a cross-platform goal described as the total number of exhibition hours for combined conventional television and online platforms;
- an accompanying condition of licence setting a minimum exhibition requirement for conventional television; and
- that anything between the conventional television minimum and the total exhibition goal could be broadcast either on the conventional television network or on an online platform.³³

35. The WGC agrees that the realities of broadcasting distribution and consumption are changing. Viewing of audiovisual programming is increasingly moving from traditional platforms like conventional television, to digital, online platforms. The WGC agrees that this trend is likely to continue, and believes that the Commission is right to contemplate this fact in this proceeding. We also acknowledge the CBC's efforts in considering a multi-platform approach in its licensing application. The WGC has long argued that regulatory frameworks must catch up to the multi-platform realities of the 21st-century broadcasting system. For example, last year, in our comments on Broadcasting Notice of Consultation CRTC 2019-91: *Call for comments on the Commission's policy on Canadian programming expenditures*, the WGC proposed "platform neutrality" as a guiding principle, as part of our larger view that CPE requirements should extend to digital media broadcasting undertakings.³⁴

36. At the same time, requiring all broadcasting undertakings operating in Canada, whether traditional broadcasters or online services, to contribute to the creation and distribution of Canadian programming, is not the same as applying identical requirements or conditions of licence to all

³² Para. 29.

³³ Para. 32.

³⁴ https://www.wgc.ca/sites/default/files/resource/2019-07/BNC%202019-91_CPE%20Policy.pdf

services or programming, or to treating all platforms as if they are the same. For example, in our above-noted comments to Broadcasting Notice of Consultation CRTC 2019-91, we pointed out that genre-specific distinctions are likely to exist for online platforms just as they do for traditional ones. These distinctions are likely to extend to online platforms, we said, since it is generally the nature of the programming itself that gives rise to them, and not necessarily the (technological) nature of the platforms. Canadian drama programming for instance, will remain expensive, risky, and difficult to finance whether it's on a traditional broadcast platform or an online platform; national sports programming will likely remain lucrative whether it's on a BDU-carried sports channel or an OTT sports platform like DAZN.³⁵ To the extent that a given service or platform is defined to a significant degree by the genre of programming it specializes in—e.g. mainstream sports, lifestyle or reality programming, drama, comedy, children's programming—then the regulatory approach to that service or platform may differ accordingly.

37. We continue to hold this view, and there may be other factors that affect different regulatory approaches to different platforms or services. Taking a multi-platform approach to broadcasting regulation—or a “platform neutral” or “platform agnostic” approach—should not mean that all platforms and/or programming should be treated as identical. Similarly, it does not mean that a regulatory requirement with respect to one platform can necessarily be copy-pasted to another platform. It does not mean that Canadian programming can be considered as a single “block” of content, subject to the same set of market realities, and therefore responsive to the same regulatory tools. And it does not mean that all online video platforms are the same, either as compared to each other or as compared to a traditional broadcaster with which they may be affiliated. Different platforms have different subscriber levels, different audience reach and demographics, different brand identities and programming strategies, different financial realities, and different brand perceptions amongst consumers. These are all things that can and should be taken into account when considering appropriate regulatory tools.
38. The WGC believes that the Commission should take a purposive approach to regulation, both generally and in the present proceeding. This is broadly consistent with the principle of statutory interpretation, stated in the *Interpretation Act*³⁶ at section 12, that “Every enactment is deemed remedial, and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects.” The Broadcasting Policy for Canada as set out in the Act, including the legislative mandate of the CBC, sets out objectives that are largely, if not almost exclusively, effected by the support of Canadian programming. Because it is through Canadian programming that Canada and its regions are reflected; Canadian programming that actively contributes to the flow and exchange of cultural expression; Canadian programming contributes to shared national consciousness and identity; Canadian programming that reflects the multicultural and multiracial nature of Canada. As such, we submit the purpose of broadcasting regulation ultimately boils down to attempting to maintain existing Canadian content where it is at risk of declining or disappearing, and/or obliging the creation and distribution of Canadian content where none is meaningfully occurring now.
39. With that as a preamble, the WGC does not see how the CBC's proposal for a multi-platform regulatory approach actually contributes to the fulfillment of its mandate and of the objectives of the Act. In broad strokes, the CBC's proposal appears to seek reductions in Canadian programming

³⁵ <https://watch.dazn.com/en-CA/sports/>

³⁶ *Interpretation Act*, (R.S.C., 1985, c. I-21), <https://laws-lois.justice.gc.ca/eng/acts/i-21/index.html>.

obligations for its traditional broadcasting services, the CBC television network in particular, while proposing cross-platform goals that are slightly higher than its existing obligations for traditional services alone. The nature of those obligations, however, are in the form of exhibition hours, and are generally not required to be original, first-run (OFR) hours. At the same time, the CBC seeks to treat an hour's worth of exhibition during prime time on its main television network as equivalent to an hour's worth of content being placed online. The result is the suggestion that an hour of programming aired at 8pm on Tuesday night on the CBC television network is the same as an hour of programming—or an hour's worth of shorter-form programming, in aggregate—placed on CBC Gem, regardless of any other factor such as production value/quality, promotion and discoverability, or target audience. The WGC disagrees that the two things are equivalent, either in theory or in practice.

40. For example, as described in greater detail below, with respect to one of its COLs applicable to English-language television, the CBC proposes to reduce its current exhibition requirement for PNI in prime time on its traditional television network from 9 hours a week to 7 hours a week, while at the same time introducing an expectation to broadcast at least 10 hours per week of PNI on either the network or on its digital platforms. In other words, the CBC proposes to reduce its television PNI obligation by two hours per week, in exchange for a three-hour “total” multi-platform increase. This implies that an hour broadcast on television in prime time is equivalent to an hour placed in an online catalogue, even if it's the same hour of programming, and irrespective of the prominence of the CBC's broadcast network in the minds of Canadians as compared to its online platform(s), the viewership to those platforms, the financial investment made in the programming, the promotion made to each, or any other factor. The WGC disagrees. We think that those factors remain relevant. An hour in one place at one time is not the same as an hour anywhere at any time. Moreover, this increase in regulatory obligations is not related to how much multi-platform programming the CBC is actually doing now. CBC does not provide the data on how its proposals compare to how many hours of PNI are currently on its digital platforms. So, while its proposal theoretically increases the regulatory *obligation* with respect to PNI across its multiple platforms, there is no indication as to whether it would result in an increase in *actual PNI hours*, or in relation to what baseline that increase might occur. On the contrary, it could be that CBC's proposal is well below the PNI hours it is currently exhibiting.
41. In the WGC's view, what the CBC appears to be seeking is a regulatory framework that is substantially similar to the group-based licensing approach applicable to the English-language private broadcasters under Broadcasting Regulatory Policy CRTC 2010-167: *A group-based approach to the licensing of private television services*, and subsequent policies and decisions (the Group-Based Approach), except that it would focus on the exhibition requirements that are the current model for CBC COLs, rather than the expenditure-based focus of the Group-Based Approach, and the “group” in question would include CBC's online services, rather than being limited to a group of traditional, conventional and

discretionary television services. Indeed, the CBC refers to its proposal as a “flexible” approach,³⁷ which is language that mirrors that of the Group-Based Approach for private broadcasters itself.³⁸

42. There is an important difference, however, between the CBC’s proposal and the Group-Based Approach for private broadcasters, and that is the difference between expenditure requirements and exhibition requirements. This boils down to the facts that the best quantitative measure of high-quality production is the financial investment made in it, and the same dollar can only be spent once, whereas an hour can be higher or lower quality, and the same program can be run multiple times and therefore qualify for multiple exhibition hours. The Commission and others have tried in the past to deal with the latter issue through the creation and application of OFR—original, first run—to ensure that a given hour of new programming can only be counted once towards meeting a regulatory requirement. OFR, however, has definitional challenges—the definition is a subject of discussion in this very application. Moreover, in at least one key instance—exhibition of PNI in prime time—there is no requirement that exhibition hours be OFR, and CBC does not propose such a requirement. The notion of “exhibition” is further distorted through the attempt to translate it to an online, on-demand environment, as CBC does, losing key elements of the current COL, such as the prime-time element, in the process. Finally, as argued above, CBC’s approach seeks to treat the CBC main network and CBC Gem or other online destinations as equivalent, even though, as we submit, they are not.
43. For these reasons, the WGC believes that if what the CBC truly seeks is the flexibility to allocate resources across multiple platforms, as is currently provided to the private broadcasters via the Group-Based Approach, then it would be better to simply do so with respect to expenditure requirements, not exhibition requirements. We submit that the Commission chose expenditure requirements in the Group-Based Approach because expenditures are the closest proxy for what is ultimately sought by these policies—meaningful investment in quality programming that is most likely to be successful with audiences.³⁹
44. We therefore submit that if the CBC seeks the flexibility of the Group-Based Approach, then it should be subject to the Group-Based Approach, presumably focused on PNI and amended to take into account its digital services, including an emphasis on expenditures rather than exhibition requirements. The CBC has opposed an expenditure-based model for its services,⁴⁰ however we are aware of no compelling reasons why this approach could not work for the public broadcaster. If the

³⁷ E.g. Application Form, Question 8, Answer, “We are proposing some changes to our conditions of licence for our television networks which, if accepted by the Commission, would provide us with greater flexibility with respect to certain types of programming. Under these proposed regulatory revisions, all Canadians would continue to have access to a balanced program offering whether they wish to access our content through traditional or digital platforms.”

³⁸ E.g. 2010-167, para. 47, “Second, in order to permit the designated groups to adapt quickly to a changing environment, the Commission will provide them with the greatest possible flexibility so that they may allocate that spending among their various licensed undertakings.”

³⁹ E.g. In Broadcasting Regulatory Policy CRTC 2010-167, *A group-based approach to the licensing of private television services*, at para. 4, the Commission said, “For over fifty years, individual television broadcasting undertakings, in return for regulatory supports and protections, have been obligated to meet requirements for the exhibition of a diversity of Canadian programming. To ensure sufficient quality of that programming, expenditure requirements have been imposed where required.” [Emphasis added]

⁴⁰ E.g. Apps # 2019-0280-0, 2019-0279-2, 2019-0282-5 and 2019-0281-7: Request for additional information in regard to the response received by the Commission 23 August 2019, October 30, 2019, Answer 2a), pg. 3.

CBC does not wish to be subject to an expenditure regime, then we submit it should retain platform-specific COLs, which are tailored to the platform in question. Moreover, as we explain above, expenditures represent a better reflection of investment in high-quality programming generally, with respect to the CBC or any broadcaster, private or public. As discussed below, however, if the Commission chooses to pursue an expenditure-based regulatory regime for the CBC, more and better public data will be necessary.

45. Finally, while the WGC appreciates what may be the CBC's and/or the Commission's interest in seeking a multi-platform approach to regulation, given the obvious shifts in consume behaviour noted above, the WGC is concerned that regulatory "experimentation" in this area carries risks in the current environment. As of the current date, the BTLR Report has been released, the Act is under review by the federal government, and it is unclear what framework will ultimately emerge for the larger industry. The WGC is concerned that despite the widely understood fact that the CBC, as the national public broadcaster, is fundamentally different from private broadcasters and major foreign online audiovisual services like Netflix, Amazon Prime, or Disney+, private players such as these may nevertheless seek to adopt whatever is chosen for the CBC as their own model, particularly if they feel it benefits them, and whether or not it is effective to advance cultural policy objectives for-profit, commercial services. Likewise, policy makers may feel gravitationally pulled towards precedent, even if sub-optimal and the special role of the CBC is explicitly recognized. The debate may become under-focused on what best supports Canadian programming and over-focused on what the CBC has and whether that's "fair" to private entities. Such a debate would be a distraction at best.
46. Given these risks, combined with the lack of any clear benefits to moving quickly on a multi-platform approach to CBC, we submit that it is better to move cautiously in this respect. Our sector has been discussing the multi-platform, "platform agnostic" nature of the industry for years. There is no doubt a growing sense that we have arrived, and our regulatory frameworks should reflect that reality. This may be true, but at the same time, the practical need for regulation online is least pressing for the CBC, as compared to private entities and global players. There is no need to rush when it comes to a public broadcaster that is already operating online services and has an independent motivation and mandate to do so.
47. Moreover, the BTLR Report recommends a set of comprehensive legislative and regulatory changes that would require all undertakings, including international online platform providers not currently covered, to contribute fairly and proportionately to Canada's national objectives, including with respect to cultural policy. The Minister of Canadian Heritage has said that his government plans to move quickly on this file, with new legislation to be table by June of 2020.⁴¹ While the path forward for this legislation is not certain, the urgency of the issue seems to be broadly recognized, including within this report itself.
48. In the WGC's view, the better approach is to seek to maintain the CBC's existing, platform-appropriate COLs, obtain more and better data on its online activities (see further discussion on data below), and then, ideally in light of new legislation, contemplate a multi-platform regulatory framework in a larger policy proceeding, which will allow a broader picture of what that will look like for all players, public and private.

⁴¹ Eli Glasner, 'We need action': Industry responds to broadcasting panel report in Ottawa, CBC, January 31, 2020, <https://www.cbc.ca/news/entertainment/reaction-independent-panel-broadcasting-1.5446915>.

Measurement Framework

49. The WGC agrees with the Commission that any regulatory requirements that it imposes on the CBC should be accompanied by a clear, transparent, and comprehensive measurement framework that ensures the Corporation is held accountable for its programming.
50. In our view, however, before discussing a new measurement framework for the *new* licence term there are some shortcomings in data reporting by the CBC from the *current* licence term and in this licence renewal proceeding that we believe must be addressed first. These shortcomings are addressed below.

PNI Exhibition and Expenditure Data

51. As part of its filings in this proceeding, the CBC has filed data showing the number of hours of PNI broadcast by its English-language television stations and network in prime time by broadcast year and week for each broadcast year of the current licence term (5 years, 2013-2014 to 2017-2018). The CBC's licences were renewed on two separate occasions by one year on an administrative basis (to 2018-2019 and again to 2019-2020). However, no PNI exhibition data are available in the same format on the public record of this proceeding for the most recent broadcast year ended August 31, 2019 (2018-2019).⁴²
52. In order for the public to have access to the most recent and relevant data, we ask the Commission to require the CBC to file data showing the number of hours of PNI broadcast by its English-language television stations and network in prime time by broadcast year and week for the 2018-2019 broadcast year, in the same format as that filed for the years 2013-2014 to 2017-2018.
53. In Broadcasting Regulatory Policy CRTC 2015-86 (the "Create Policy"), the Commission expressed the view that "original first-run Canadian productions add more value to the system." The WGC agrees and believes regulatory requirements imposed by the Commission on all broadcasters should focus on ensuring the production of an appropriate level of OFR Canadian programming.
54. Given the importance of original first-run Canadian programming to the system, we submit that the CBC should be required to break out how many of the total PNI hours it broadcast in each year of the current licence term were OFR hours. While the public broadcaster has filed data showing the percentage of CPE and PNI *spending* that went to OFR programming for its English-language television stations and network, the CBC does not currently have expenditure requirements. Given that the CBC's English-language television stations and network has an exhibition requirement (hours) related to PNI, the we ask the Commission to require the CBC to file data showing how many of the total PNI

⁴² This information is broadly available on the CBC's corporate website in a document titled *Appendix 3: Programs of National Interest in Prime Time*, https://site-cbc.radio-canada.ca/documents/impact-and-accountability/regulatory/2019/Reference%20684797-2018-2019_CBCSRC_Appendix_3_Programs_of_National_Interest-Decision%202013-236.pdf. However, the document is not in the same format as filed in the licence renewal proceeding, which shows the total number of PNI hours broadcast per year and week by PNI program subcategories and the percentage that each subcategory makes up of total PNI hours.

hours its English-language television stations and network broadcast in each year of the current licence term (up to 2018-2019) were OFR hours.

55. The WGC notes that the CBC has filed just three years of financial information and Canadian programming expenditure forecasts (up to 2022-2023) for its English-language television stations and network for the five-year licence term it is seeking in this licence renewal proceeding.⁴³ The CBC has provided a full five years of Canadian programming expenditure forecasts for CBC News Network (up to 2024-2025) but not for the English-language television stations and network. We ask the Commission to require the CBC to file a full five years of financial (revenue/expenses etc.) and Canadian programming expenditure forecasts corresponding to the new licence term (i.e., from 2020-2021 to 2024-2025) for its English-language television stations and network.

Financial Information Related to Digital Media Broadcasting

56. In a letter to the CBC dated October 9, 2019 requesting additional information regarding the public broadcaster's licence renewal application, the Commission requested the following:

- 21) In the 23 August Response to financial information requested regarding online platforms and services (English audiovisual, French audiovisual, English audio, French audio and external platforms), CBC/SRC submitted aggregated financial data for all online platforms (services and activities).

Please submit disaggregated financial information⁴⁴ using the forms⁴⁵ sent in the 23 May Letter for:

- a. CBC owned and operated audio-visual online platforms
- b. CBC owned and operated audio online platforms
- c. SRC owned and operated audio-visual online platforms
- d. SRC owned and operated audio online platforms
- e. Non CBC/SRC owned and operated audio-visual and audio online platforms

57. The CBC has filed a document showing past and projected "consolidated" spending on "Digital Media Broadcasting" content-related expenses. To our knowledge, however, disaggregated data as requested by the Commission above are not available on the public record of this proceeding.

⁴³ The CBC has included the 2018-2019 and 2019-2020 broadcast years (i.e., the two administratively renewed licence years) in documents providing forecasts of financial information (e.g., revenue and expenditures) and forecasts of Canadian programming expenditures. The public now has access to actual 2018-2019 financial and programming expenditure data for the CBC's English-language television stations and network as a result of the recent release on the CRTC's website of the CBC's Conventional TV Aggregated Annual Returns for 2018-2019. However, financial and Canadian programming expenditure forecasts for the CBC's English-language television stations and network for the 2023-2024 and 2024-2025 broadcast years are not available, meaning the public does not have access to complete forecasts corresponding to the proposed new five-year licence term.

⁴⁴ Projections should include the name of each undertaking included in the group and, where applicable, subscriber numbers.

⁴⁵ Fin. Online tabs: Radio Annexes SRC EN, Radio Annexes SRC FR, Radio Appendix CBC EN, Radio Appendix CBC FR, TV Annexes SRC EN, TV Annexes SRC FR, TV Appendix CBC EN, TV Appendix CBC FR

Unfortunately, the format and contents of the “consolidated” document filed by the CBC render the data unhelpful to the public and industry stakeholders and the public for the following reasons:⁴⁶

- The consolidated document appears to combine both CBC and Radio-Canada data (since the heading reads “CBC & Radio-Canada”), which means English- and French-language spending are combined. In order for the information to be relevant for the public and industry stakeholders and the public the CBC should be required to provide separate “Digital Media Broadcasting” data for the CBC and Radio-Canada (i.e., by language).
- The CBC does not define or detail the specific platforms or activities that make up “Digital Media Broadcasting”. What exactly is included as “Digital Media Broadcasting” when it comes to the CBC’s English-language services in general and this document in particular? CBC-owned and operated websites (if so, which ones)? Mobile apps (if so, which ones)? CBC Gem? Anything else? As discussed above, the WGC believes that different platforms have different characteristics, and should not be treated identically. This is true within the CBC’s own digital platforms. For example, the subscriber experience on CBC Gem may be different than that of cbc.ca, with different business characteristics as a result. The addition of platform-specific information would assist the public and industry stakeholders to evaluate the CBC’s proposals and activities.
- Total content-related expenses (foreign and Canadian) includes spending on audio-visual and audio content, whereas total Canadian content-related expenses include spending on audio-visual content only. This makes comparing Canadian content-related expenses to total content-related expenses impossible (apples to oranges). As such, we ask the Commission to require the CBC to file on the public record separate content-related expenditure data for audio-visual content and audio content.
- Given that the CBC is proposing a hybrid regulatory approach using hours of PNI on both linear television and digital for its English-language services, and not expenditures, providing *expenditure* data and forecasts is less relevant to their proposal. Moreover, as noted above, there is no historical or benchmark data provided on how many hours of PNI (or other programming for that matter) are currently available on the CBC’s “Digital Media Broadcasting” services. Accordingly, we ask the Commission to require the CBC to file historical data detailing the number of hours of “Digital Media Broadcasting” it provides, including PNI hours, and clearly explain what is included in “Digital Media Broadcasting”. This data should be broken out by language (CBC vs. Radio-Canada), total hours vs. Canadian, program category including children’s

⁴⁶ Even the document containing financial information (i.e., earned revenue) for CBC/Radio-Canada’s online audio and audio-visual services filed by the CBC on February 3, 2020 related to the procedural request filed by the Friends of Canadian Broadcasting and repeats the aggregated content-related expenses data that was previously on the public file fails to provide relevant data to the public. That’s because the revenue and expenditure data are still consolidated to include English and French (CBC and Radio-Canada) and audio-visual and audio together. Also, the Canadian content-related expenses are for audio-visual only, which can’t be directly compared to the revenue numbers, which are for audio-visual and audio combined.

programming, original first-run vs. non-original, and audio-visual content should be reported separately from audio content.

- Given that the CBC is proposing a hybrid regulatory approach using hours of PNI on both linear television and digital for its English-language services, we submit it should therefore be required to file five-year forecasts (from 2020-2021 to 2024-2025) of the number of PNI hours it expects to have available on its “Digital Media Broadcasting” services, by language (CBC vs. Radio-Canada), total hours vs. Canadian, program category including children’s programming, original first-run vs. non-original, and separate audio-visual and audio content. (It’s not particularly relevant to provide expenditure forecasts when one is proposing an exhibition regulatory approach.)
- Data for the 2018-2019 broadcast year is labelled as “projected”. Given that the 2018-2019 broadcast year ended almost six months ago, we believe the CBC should clarify whether the 2018-2019 numbers in this document are actual year-end numbers or forecasts. If they are the latter, actual year-end numbers should be filed by the CBC in accordance with the recommended changes noted above [i.e., by language (CBC vs. Radio-Canada), total hours vs. Canadian, program category including children’s programming, original first-run vs. non-original, and separate audio-visual and audio content] so the public has access to the most recent data.
- Only three years of forecasts for “Digital Media Broadcasting” are provided, not five years corresponding to the proposed new five-year licence term. Accordingly, we ask the Commission to require the CBC to provide a full five years of projected “Digital Media Broadcasting” revenue and content-related expenditure forecasts corresponding to the new licence term (i.e., from 2020-2021 to 2024-2025), in accordance with the recommended changes noted above [i.e., by language (CBC vs. Radio-Canada), total hours vs. Canadian, program category including children’s programming, original first-run vs. non-original, and separate audio-visual and audio content].
- As discussed below, it is our view that an hour on the CBC network in prime time has a different and, we submit, (currently) a more valuable, character than an hour of content uploaded to Gem or other CBC digital platform, and we believe this would be reflected in audience data demonstrating viewership to PNI programming on network television versus digital platforms as well as average budget levels per hour by platform for each of the PNI categories, most notably Category 7, Drama and comedy, preferably broken down by sub-category, and Category 2(b), Long-form documentary. We ask the Commission to require the CBC to provide this data to be placed on the public record of this proceeding.

Reporting on Script and Concept Development Spending

58. The WGC has raised issues and anomalies with broadcasters' reporting on script and concept development spending in the context of various Commission proceedings in recent years, without resolution.⁴⁷ These issues do not escape the CBC.
59. We note that in the Programming Expenses spreadsheet in the Aggregated Annual Return for 2018-2019 for CBC's English-language television stations and network (conventional television), \$0 is reported on line 10 [Script and concept development (programs not telecast)] and just \$147,000 is reported on line 28 [Script and concept development (programs telecast)], including \$0 for all Category 7 programming on both lines. This is difficult to believe given the total CPE and PNI expenditure numbers reported in CBC's Conventional television Aggregated Annual Return.
60. Since the Commission has sought comments on measurement and reporting in this licence renewal proceeding, the WGC requests that it also consider the ongoing issues related to script and concept development reporting. In our analysis, there are still anomalies in the broadcasters' Aggregated Annual Returns, including those filed by the CBC, which suggests that broadcasters are either not spending on script and concept development or they are not properly reporting that spending.
61. The WGC continues to believe that spending on the script and concept development of Canadian programming is an essential component of broadcasters' success and, ultimately, of the success of the Canadian broadcasting system. But neither the WGC nor other members of the public can assess how broadcasters, including the CBC, are spending on development in the absence of clear, reliable reporting. As such, we ask the Commission to review these matters and resolve the apparent inconsistencies with respect to this crucial development spending data.

CBC/Radio-Canada Should be Required to Complete and File the Production Report Annually

62. In Broadcasting Decision CRTC 2017-148, *Renewal of licences for the television services of large English-language ownership groups – Introductory decision* and Broadcasting Decision CRTC 2017-143, *Renewal of licences for the television services of large French-language ownership groups – Introductory decision*, the Commission outlined the requirements for reporting on Canadian productions. Later, in Notice of Consultation 2018-488, the Commission called for comments on modifications to the existing PNI report in order to capture information relating to original first-run programming, amongst other changes. This new Production Report will now capture information relating to the criteria outlined in Broadcasting Regulatory Policy 2010-629 and was finalized in Broadcasting Information Bulletin CRTC 2019-304.
63. In its October 9, 2019 letter to the CBC requesting additional information regarding its licence renewal application, the Commission again⁴⁸ asked the public broadcaster whether it would agree to the imposition of a condition of licence requiring it to complete the Production Report as outlined in Broadcasting Information Bulletin CRTC 2019-304, using the definitions included in the bulletin.

⁴⁷ E.g. https://www.writersguildofcanada.com/sites/default/files/resource/2019-03/Intervention.Mar_.6.pdf.

⁴⁸ The CRTC had previously asked in the CBC/Radio-Canada licence renewal application form.

64. The CBC essentially said that the new reporting requirements it has proposed for the new licence term are sufficient and a requirement to file the Production Report would result in a significant duplication of effort.
65. The WGC disagrees. The new reporting requirements proposed by the CBC are not the same and do not provide the same level of detail as the information required in the Production Report. Also, requiring the CBC to complete and file the Production Report annually would address many of the data requirements necessary to monitor the public broadcaster's performance and fulfilment of its mandate that the Commission laid out in the "Measurement framework" section of the Notice of Consultation for this licence renewal proceeding.
66. Moreover, in order to have consistent data for the industry and broadcasting system as a whole there is considerable benefit to requiring the CBC to file the same information as that required by the large private broadcasters. Accordingly, we urge the Commission to impose a condition of licence requiring the CBC to complete and file the Production Report annually.

Reporting Requirements for the New Licence Term

67. Generally speaking, whatever regulatory requirements the Commission ultimately imposes on the CBC in its next licence must be accompanied by clear and transparent reporting annually and made publicly available so that compliance can be tracked and monitored by the Commission, industry stakeholders, and the public.
68. In order for the data to be relevant to the public, various industry stakeholders, and to the system as a whole, it is imperative that the CBC's financial and programming expenditure data filed with the Commission be as disaggregated as possible. This means that programming hours and/or expenditure data, for example, should be broken out by language (CBC vs. Radio-Canada), total programming hours/expenditures vs. Canadian programming hours/expenditures, by program category,⁴⁹ original first-run vs. non-original, and audio-visual content should be reported separately from audio content.
69. With respect to the "Digital Media Broadcasting" services of the CBC, the Commission should begin collecting financial, exhibition, and expenditure data on these services on an annual basis to better understand the evolution of the distribution and availability of audio-visual content provided by the public broadcaster. This should occur regardless of whether the Commission imposes specific regulatory obligations related to the CBC's "Digital Media Broadcasting" services in its licence renewal decision flowing from this proceeding.
70. In paragraph 40 (Q29) of the Notice, the Commission asks, among other things, which measurement tools would be most appropriate for measuring any requirements imposed on the online platforms and services of the CBC. If measuring exhibition, we submit that it will be important to distinguish between long-form and short-form content. We submit that this distinction is relevant, given that, in our experience, short-form content generally involves different levels of financial investment than long-form content. A one-hour episode of a drama series is not generally the same as six 10-minute

⁴⁹ To be clear, hours/spending on children's programming should also be reported, even though children's programming is not a program category in itself.

dramatic shorts, despite having the same running time in aggregate.⁵⁰ As noted above, it is our view that the financial investment in programming bears the closest correlation to the quality of the programming that results. Since running time is also correlated to investment, then any attempt to measure hours online should recognize the distinction between long-form and short-form content. This is already recognized by the Commission in the definition of Category 2(b), Long-form documentary, which examines its subject matter over the course of at least 22 minutes.⁵¹

71. Should the Commission agree to the CBC’s hybrid regulatory approach using hours of PNI on both linear television and digital for its English-language services, the Commission must ensure that PNI hours broadcast on linear television are reported separately from those available on the CBC’s “Digital Media Broadcasting” services. A consolidated number will not allow the Commission, industry stakeholders, and the public to adequately assess the impact of the hybrid approach. Moreover, it is critical that reporting related to a hybrid regulatory approach follow the disaggregation guidelines noted above, as necessary or relevant [i.e., by language (CBC vs. Radio-Canada), total hours vs. Canadian, program category, original first-run vs. non-original, and separate audio-visual and audio content].
72. Finally, as noted above, we submit that the Commission should require the CBC to provide information, to be made available to the public, on whether key creative roles such as showrunner, writer, director, and all other key creative roles currently subject to the CAVCO 10-point scale, are occupied by Canadians.⁵²
73. The WGC submits that the collection of this data would not be redundant nor would it be overly onerous for the CBC. To our knowledge, there is no public source of information demonstrating how various key creative roles are filled *on a role-by-role basis*, nor is this information specifically available with respect to the Canadian programming—or PNI—commissioned by the CBC. As the WGC has argued in the past, a simple assessment of how many productions are six—or eight, nine, or ten—points out of ten under the CAVCO scale,⁵³ does not reveal *which* roles are typically filled by non-Canadians as points requirements decline. In our experience, 8- or 6-point productions are more likely to be written and/or starring non-Canadians than they are to have a non-Canadian cinematographer or editor, making the impacts of points requirements fall inconsistently across different roles.⁵⁴ This matters because screenwriters (and showrunners) are subject to the CAVCO points system, yet in a

⁵⁰ Or a similar number of less-than-10-minute shorts, adding up to the running time of an episode of one-hour drama, minus time for commercials, and considering that there may be different metrics with respect to children’s programming.

⁵¹ Broadcasting Regulatory Policy CRTC 2010-808, *Definitions for television program categories*, Appendix.

⁵² Consistent with the eligibility requirements for the Canadian Film or Video Production Tax Credit (CPTC), as well as the Commission’s own certification rules, the term “Canadian” should be defined as a person who is, at all relevant times, a Canadian citizen as defined in the *Citizenship Act*, or a permanent resident as defined in the *Immigration and Refugee Protection Act*.

⁵³ Canadian Audio-Visual Certification Office (CAVCO), *Canadian Film or Video Production Tax Credit (CPTC) Program Guidelines*, April 2, 2012, <https://www.canada.ca/content/dam/pch/documents/services/funding/cavco-tax-credits/canadian-film-video-production/cptcGuide-eng.pdf>, sections 4.02 and 4.03. The Commission uses the same scale—see “Guide to the CRTC Canadian Program Certification Application Process”, <https://crtc.gc.ca/canrec/eng/guide1.htm#s9t>, section 9, “Key creative positions”.

⁵⁴ For more, see the WGC submission to Canadian Content in a Digital World Consultations, November 25, 2016, <https://www.wgc.ca/sites/default/files/resource/2019-01/WGCSCanCon.pdf>, para. 157.

writer-driven medium like television, they are the ones crafting the narrative, creating the characters, developing the themes, and expressing the points of view of the program—they are the ones providing the “authorial voice” of the show. The presence (or absence) of Canadian screenwriters on an otherwise certified production matters, and, with respect, it matters differently than the presence (or absence) of a cinematographer or editor. For these reasons, we submit that the Commission should both collect this information and publish it, in an aggregated form if necessary, to respect confidentiality concerns, so that stakeholders and the public can better understand how these roles are, or are not, being filled by Canadians on the CBC’s programming.

Proposed Amendments to, Additions of and Deletions of Conditions of Licence & Expectations

Programs of national interest (PNI)

74. As stated in Appendix 2 to the Notice, with respect to Application 2019-0282-5 – English-language audio-visual services:

The Canadian Broadcasting Corporation (the Corporation) is currently required to adhere to the following condition of licence:

The licensee shall broadcast a minimum of 9 hours per week, averaged over the broadcast year, in prime time (7 p.m. to 11 p.m.) of programs of national interest, which consist of programs drawn from category 2(b) Long-form documentary, and 7 Drama and comedy, and specified Canadian award shows that celebrate Canadian talent.

Of these 9 hours a minimum of:

- 2 hours shall be devoted to each of category 2(b) Long-form documentary and 7 Drama and comedy.
- 5.25 hours shall be Canadian programs produced by independent production companies.

The licensee is proposing to amend that condition of licence as follows (changes in bold):

The licensee shall broadcast a minimum of **7** hours per week, averaged over the broadcast year, in prime time (7 p.m. to 11 p.m.) of programs of national interest, which consist of programs drawn from category 2(b) Long-form documentary, and 7 Drama and comedy, and specified Canadian award shows that celebrate Canadian talent.

Of these **7** hours a minimum of **80% shall be Canadian programs produced by independent production companies.**

The Corporation is also proposing the addition of the following expectation in relation to the amended condition of licence:

The Commission expects the licensee to broadcast at least 10 hours per week of programs of national interest on either the network or on digital platforms owned and operated by the licensee.

75. In summary, as the WGC understands it, CBC proposes to reduce its current exhibition requirement for PNI in prime time on its traditional television network from 9 hours a week to 7 hours a week, while at the same time introducing an expectation to broadcast at least 10 hours per week of PNI on either the network or on its digital platforms. In other words, the CBC proposes to reduce its television PNI obligation by two hours per week, in exchange for a three-hour “total” multi-platform increase.

76. The WGC **opposes** this proposal, subject to our comments below.

77. As stated above, the WGC believes that not all platforms are the same, and therefore it is not necessarily appropriate to treat a requirement for something on one platform as being identical as the same thing on another platform. In a request for further information, the Commission noted that it has concluded that PNI expenditure requirements continue to be an appropriate tool for ensuring that Canadians have access to the maximum number of programs from PNI categories and that such programs require continued regulatory support. The Commission then asked the CBC to explain how its proposal of reducing PNI requirements on conventional television is consistent with the Commission’s view regarding the importance of programs of national interest. The CBC responded as follows:

We believe that increasing our overall commitment to PNI (i.e., including traditional and digital platforms in an “umbrella” expectation requirement) is fully consistent with the Commission’s Create Policy. We do not believe it is appropriate for that policy to be focused solely on traditional platforms.⁵⁵

78. It seems clear from this response that the CBC is indeed seeking to treat an exhibition hour during prime time on the CBC television network as substantially the same as an hour of content made available on a CBC owned and operated digital platform such as Gem. As such, the CBC does not see their proposal as resulting in a reduction of PNI requirements, but rather as an increase in “overall” PNI requirements.

79. The WGC does not share that view. As we have said, an hour on the CBC network in prime time has a different and, we submit, (currently) a more valuable, character than an hour of content uploaded to Gem or other CBC digital platform. CBC television has a longer history, is a more established brand and, we submit, a higher “status” than any current CBC digital platform does, include CBC Gem. We are not aware of audience data demonstrating viewership to PNI programming on network television versus digital platforms. We submit, however, that given its history, if the CBC believes that the two platforms are comparable with respect to PNI, then it should provide supporting data on this point in this proceeding, and make it available on the public record.

80. Our view appears to be further reflected in the investments that CBC itself makes in programming destined for prime time on its television network, as compared to those intended primarily for online

⁵⁵ Apps # 2019-0280-0, 2019-0279-2, 2019-0282-5 and 2019-0281-7: Request for additional information in regard to the response received by the Commission 23 August 2019, October 30, 2019, Answer 8a), pg. 11.

viewing. Data provided by the CBC does not permit us to examine the average budget per hour of programming commissioned primarily for platforms like Gem, as compared to CBC's main television network. However, our anecdotal experience has been that there is a preference for shorter-form, lower-budget programming on Gem or other online services, with larger-budget, half-hour and one-hour "prestige" programming more often provided on the CBC television network. Given the unavailability of such data to use currently, we ask the Commission to require from CBC the average budget levels per hour by platform for each of the PNI categories, most notably Category 7, Drama and comedy, preferably broken down by sub-category, and Category 2(b), Long-form documentary.

81. In addition, there is no requirement in this COL that programming be original, first-run, either on the CBC television network or online. As such, it seems entirely possible for the CBC to air an hour of PNI in prime time on television, OFR or non-OFR, and then place the same hour online, thereby generating two exhibition hours at the same time for the same hour of programming. We are aware that the CBC is proposing that an exhibition hour online can only be earned when it is first placed into the catalogue.⁵⁶ The ability to generate hours in this way may be therefore somewhat limited. It nevertheless remains a concern and, given our comments above, we question what purpose allowing such a practice at all would serve in furthering the objectives of the Act.
82. Finally, while the CBC's proposal would result in a putative increase in its regulatory obligations with respect to PNI hours across all its services, we do not know how many hours CBC is exhibiting now, so we do not know if the proposal represents an actual increase in PNI exhibition across those services, because we don't have a baseline to compare it to. It is ultimately not meaningful for the CBC to increase its regulatory obligations regarding PNI exhibition if that does not translate into a meaningful result—preferably, to an increase—with respect to the actual amount of PNI exhibited by the national public broadcaster.
83. In the CBC's previous licence renewal proceeding, the WGC and others proposed a PNI prime time exhibition requirement of 10 hours a week, based on the CBC's historical PNI exhibition levels at that time.⁵⁷ In setting the current requirements, the Commission stated:

The Commission notes that [during the public hearing] the CBC increased its proposal for a minimum level of PNI to be broadcast each week from seven to nine hours in light of concerns expressed by various parties. While this is less than the historical level, the Commission notes that the CBC's funding has also fallen below historical levels. Accordingly, the Commission considers that the CBC's proposal is reasonable.⁵⁸

84. As the Commission is aware, the CBC has since received an increase in its Parliamentary appropriation from the Liberal government under Justin Trudeau by \$150 million annually. The WGC understands that increase to be an ongoing one.⁵⁹ At the same time, the CBC's historical exhibition of PNI in prime

⁵⁶ Apps # 2019-0280-0, 2019-0279-2, 2019-0282-5 and 2019-0281-7: Request for additional information in regard to the response received by the Commission 23 August 2019, October 30, 2019, Answer 1a), pg. 2.

⁵⁷ Broadcasting Decision CRTC 2013-263 and Broadcasting Orders CRTC 2013-264 and 2013-265, para. 56.

⁵⁸ Broadcasting Decision CRTC 2013-263 and Broadcasting Orders CRTC 2013-264 and 2013-265, para. 57.

⁵⁹ Denis Carmel, *Just to be clear, that boosted CBC funding is permanent*, CARTT, December 12, 2019, <https://cartt.ca/just-to-be-clear-that-increased-cbc-funding-is-permanent/>.

time over the current licence term has averaged between 9.2 and 11.7 hours per week.⁶⁰ Given the fact that the CBC continues to be able to air PNI on its television network in prime time at these levels, combined with the increased funding it has received from the federal government, the WGC submits that not only should the Commission reject the CBC's proposal to reduce this PNI exhibition requirement on television from 9 hours to 7 per week, but on the contrary it should be increased to at least 10 hours, closer to historical levels. Either that or, as discussed above, the CBC should adopt an expenditure-based Canadian programming requirement model, along the lines of the Group-Based Approach, if it truly wishes to adopt a multi-platform approach, with all requirements being COLs and not expectations.

85. The WGC also opposes the CBC's proposal to remove the requirement that, of the required PNI exhibition hours, 2 hours shall be devoted to each of category 2(b) Long-form documentary and 7 Drama and comedy. In the CBC's previous licence renewal, the Commission stated:

To help ensure that CBC English-language television provides a balanced schedule in prime time, the CBC proposed that at least two hours per week of PNI consist of long-form documentaries and two hours consist of drama and comedy programs. Although these minimums are below historical levels, the Commission considers that a balanced prime time schedule that includes both drama and documentaries contributes to the Act's objective that the national public broadcaster should incorporate a wide range of programming that informs, enlightens and entertains.⁶¹

86. According to information on the public record of this proceeding, this requirement remains well below the CBC's historical levels.⁶² As such, the WGC does not understand why the CBC seeks to have this COL removed. The COL is almost certain to be easily met by the CBC, and in any event, any scenario in which the CBC were meeting its PNI requirements by relying entirely upon specified Canadian award shows that celebrate Canadian talent, with no dramas or long-form documentaries, would not result in a balanced prime time schedule. Again, unless the CBC wishes to shift to a multi-platform regulatory model based on Canadian programming expenditures rather than exhibition, the WGC submits that this element of the current COL should be retained and, if anything, increased.
87. Finally, while the WGC opposes the reduction of the PNI exhibition requirement from 9 hours to 7 hours, it does not oppose a requirement that a minimum of 80% of PNI be Canadian programs produced by independent production companies.

Children's programming

88. As stated in Appendix 2 to the Notice, with respect to Application 2019-0282-5 – English-language audio-visual services:

The Corporation is currently required to adhere to the following condition of licence:

⁶⁰ DM#3700231 - APP - 2019-0282-5_APP_Q103-CBC-PNI_Report_template-EN.

⁶¹ Broadcasting Decision CRTC 2013-263 and Broadcasting Orders CRTC 2013-264 and 2013-265, para. 58.

⁶² DM#3700231 – APP – 2019-0282-5_APP_Q103-CBC-PNI_Report_template-EN.

The licensee shall broadcast a minimum of 15 hours per week, averaged over the broadcast year, of Canadian programming aimed at children under 12 years of age.

Of these 15 hours, a minimum of one hour, averaged over the broadcast year, shall be devoted to original Canadian programming. For the purposes of this condition, “original Canadian programming” means:

- i. a Canadian program that, at the time of its broadcast by the licensee, has not been previously broadcast by the licensee or by any other licensee; or
- ii. if the licensee contributed to the program’s pre-production financing, a Canadian program that has only been previously broadcast by another licensee that also contributed to its pre-production financing.

At least 75% of these hours must be devoted to programs produced by independent production companies.

The licensee is proposing to amend that condition of licence as follows (changes in bold):

The licensee shall broadcast a minimum of 15 hours per week, averaged over the broadcast year, of Canadian programming aimed at children under **13** years of age.

The licensee shall broadcast a minimum of 40 hours per year of original Canadian programming aimed at children and youth.

For the purposes of this condition, “original Canadian programming” means:

- i. a Canadian program that, at the time of its broadcast by the licensee, has not been previously broadcast by the licensee or by any other licensee; or
- ii. if the licensee contributed to the program’s pre-production financing, a Canadian program that has only been previously broadcast by another licensee that also contributed to its pre-production financing.

At least **80%** of these hours must be devoted to programs produced by independent production companies.

The Corporation is also proposing the addition of the following expectation in relation to the amended condition of licence:

The Commission expects the licensee to broadcast at least 80 hours of original programming for children and youth per year either on the network or on digital platforms owned and operated by the licensee.

89. In summary, as the WGC understands it, CBC proposes to reduce the minimum exhibition requirements for original Canadian children’s programming on its traditional television network, from one hour a week (52 hours per year) to 40 hours per year, while at the same time introducing a new expectation that will increase overall exhibition requirement to at least 80 hours of original Canadian

or non-Canadian programming for children and youth per year either on the network or on its digital platforms.

90. Other than with respect to the change of age range, as discussed in further detail below, the WGC **opposes** this proposal.
91. The WGC takes broadly the same position in this respect as it does with respect to exhibition of PNI in prime time. The CBC seeks to treat hours on any platform as broadly the same, but the WGC disagrees that that's the case, and we lack a baseline of what CBC is doing now in order to compare this proposal with the current context. The WGC understands the CBC's desire to reach younger audiences on digital platforms, however we submit that it needn't reduce hours on television in order to add them online. The CBC can do both, and it should do both.
92. Obviously, the expectation that the CBC proposes to broadcast at least 80 hours of original programming for children and youth per year either on the network or its digital platforms does not refer to *Canadian* programming, and therefore does not compensate for the loss of hours of Canadian programming proposed in the COL. In our view, the CBC's obligations to Canadian programming and Canadian audiences apply as much to children's programming as to programming targeted to adults.
93. Finally, the WGC does not oppose a requirement that a minimum of 80% of these hours must be devoted to programs produced by independent production companies. The WGC takes no position on the amendment with respect to changing the age regarding the COL that the licensee shall broadcast a minimum of 15 hours per week, averaged over the broadcast year, of Canadian programming aimed at children under 13 years of age.

Concluding Remarks & Appearance at Public Hearing

94. The WGC thanks the Commission for the opportunity to provide these written comments. **I request to appear at the public hearing**, and look forward to expanding upon the WGC's written comments at that time.

Yours very truly,



Maureen Parker
Executive Director

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