Writers Guild of Canada

July 26, 2023 **Filed Electronically**

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

Dear Mr. Doucet:

Re: Reply Comments, Broadcasting Notice of Consultation CRTC 2023-138: the Path Forward – Working towards a modernized regulatory framework regarding contributions to support Canadian and Indigenous content

1. The Writers Guild of Canada (WGC) is the national association representing approximately 2,500 professional screenwriters working in English-language film, television, radio, and digital media production in Canada. The WGC is actively involved in advocating for a strong and vibrant Canadian broadcasting system containing high-quality Canadian programming.

2. Given the nature of our membership, the WGC is primarily concerned in this proceeding with television creation and presentation. As such, when we talk about "Canadian programming" or "Canadian content" in this written submission, we are speaking primarily about audiovisual content.

Scope of the WGC's reply comments

3. The Commission has received 363 interventions in this proceeding. 209 of these were from companies or organizations, and several dozen of them were of significant length and complexity, including several with appended further reports or models. The WGC is a small organization, so while we have made every effort to review as many of the relevant interventions as possible within the two weeks provided for reply comments as possible,[1] we cannot be certain we have been able to read and fully analyze every relevant comment in what is an incredibly broad and significant proceeding. As such, the WGC intends to continue to develop our thinking over the coming months, and may have additional points to discuss at the public hearing beginning on November 20.

[1] At the same time, the WGC appreciates and supports the Commission in moving forward with implementing the *Online Streaming Act* in a prompt manner, given the crisis state of key elements of the broadcasting system, including that of Canadian screenwriters.

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The overall views of the WGC remain unchanged

4. Having reviewed the comments of other interveners in this proceeding, we can say that our views as provided in our initial written submissions remain unchanged. Broadly speaking, the WGC continues to support the contribution framework as put forward by the Commission in this proceeding. We continue to submit that the Commission should pursue the growth of the Canadian domestic audiovisual sector, and that the $1 billion annually in new, incremental support for Canadian content, as cited by the Government in the legislative process for the *Online Streaming Act*, continues to be the appropriate target. Art is made by artists, Canadian art is made by Canadian artists, television is a writer's medium, and Canadian screenwriters and showrunners are the Canadian authorial voice of Canadian content.

The *Broadcasting Act* is about cultural objectives, first and foremost

5. The *Broadcasting Act* (the Act) sets out various objectives, including that the Canadian broadcasting system: provides, through its programming, a public service essential to the maintenance and enhancement of national identity and cultural sovereignty;[2] should serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada;[3] should encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity;[4] should, through its programming and the employment opportunities arising out of its operations, serve the needs and interests of all Canadians, in all their diversity;[5] and, that each broadcasting undertaking shall contribute to the implementation of the objectives of the broadcasting policy set out in this subsection in a manner that is appropriate in consideration of the nature of the services provided by the undertaking.[6] These objectives are at the core of what the *Broadcasting Act* is.

6. A number of interveners, however, have emphasized other elements of the Act and/or the Draft Policy Direction[7] to, we submit, distract from and undermine the fundamental purpose of the Act, the Draft Policy Direction, and this proceeding. These interveners would have secondary or subordinate principles on *how* the Commission should regulate, vie for prominence, or even override, fundamentally *what* the *Broadcasting Act* seeks to accomplish by regulating. They would have the Regulatory Policy tail wag the Broadcasting Policy dog, to the detriment of the achievement of the purpose of the Act.

7. For example, the Motion Picture Association-Canada (MPA-Canada) lists "flexibility" as a principle that is, "in keeping with a flexible, outcomes-based approach for a modernized contribution framework."[8] On this basis, the MPA-Canada states that, "Specific contribution requirements should be not be

[2] Section 3(1)(b).
[3] Section 3(1)(d)(i).
[4] Section 3(1)(d)(ii).
[5] Section 3(1)(d(iii).
[6] Section 3(1)(a.1).
[7] Canada Gazette, Part I, Volume 157, Number 23: Order Issuing Directions to the CRTC (Sustainable and Equitable Broadcasting Regulatory Framework)
[8] MPA-Canada, para. 11.

mandated," [sic] and that, "broadcasting undertakings should be… provided with flexibility over where and how they contribute to the Canadian broadcasting system."[9] The MPA-Canada further, "disagree[s] with the proposal that all broadcast undertakings should be required to contribute to each of three prescribed categories of contributions," and they, "strongly oppose the proposal for an initial base contribution."[10] "Broadcasting undertakings should be permitted to choose between paying into a fund(s), making Canadian programming expenditures ("CPEs") and making intangible contributions," they say.[11] Such statements effectively seek to vitiate the bulk of the Commission's proposed model. In total, the MPA-Canada uses the words "flexible" or "flexibility" 39 times in its submission.

8. Similarly, MPA-Canada member Netflix Services Canada ULC (Netflix) cites section 5(2)(a.1) of the *Broadcasting Act*, and states that:

> [L]imiting Netflix's flexibility to make direct investments in Canadian programs conflicts with the various objectives under the Act that acknowledge that the Canadian broadcasting system "should be regulated and supervised in a flexible manner that… takes into account the nature and diversity of the services provided by broadcasting undertakings, as well as their size and their impact on the Canadian creation and production industry..."[12]

9. The MPA-Canada emphasizes concepts such as "proportionality"[13] and "innovation," the latter of which it mentions seven times in its submission, stating, in its apparent rejection of longstanding and proven regulatory tools in the Canadian broadcasting system, that, "this is an opportune time to innovate and to explore new models, which can be adapted to suit the various business models and programming strategies of different players."[14]

10. Traditional Canadian broadcasters also emphasize these concepts. The Canadian Association of Broadcasters (CAB) uses the worlds "flexible" or "flexibility" seven times in its submission, and argues that, "a 'standardized contribution framework' that requires all undertakings to make contributions into the three categories of contribution…may not be appropriate for all types of services."[15]

11. These arguments either cite or allude to concepts or provisions in section 5(2), the "Regulatory Policy" of the Act. The Regulatory Policy states that, "the Canadian broadcasting system should be regulated and supervised in a flexible manner,"[16] that "takes into account the nature and diversity of the services provided by broadcasting undertakings," among other things,[17] and which, "promotes innovation and is readily adaptable to scientific and technological change,"[18] among other objectives.

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[9] MPA-Canada, para. 11(m)
[10] MPA-Canada, para. 11(n).
[11] MPA-Canada, para. 11(o).
[12] Netflix, para. 54.
[13] MPA-Canada, para. 11(c).
[14] MPA-Canada, para. 13.
[15] CAB, pg. 26.
[16] *Broadcasting Act*, section 5(2).
[17] *Broadcasting Act*, section 5(2)(a.1).
[18] *Broadcasting Act*, section 5(2)(c).

12. These concepts are indeed stated in the Regulatory Policy at section 5(2). Crucially, however, every single thing in the Regulatory Policy of the Act is subject to a "conflict" clause that states:

> The Commission shall give primary consideration to the objectives of the broadcasting policy set out in subsection 3(1) if, in any particular matter before the Commission, a conflict arises between those objectives and the objectives of the regulatory policy set out in subsection (2).[19]

13. The purpose of the *Broadcasting Act*—the very objectives which it exists to advance—are at section 3(1), the "Broadcasting Policy for Canada". *How* those objectives are advanced are subject to the Regulatory Policy at section 5(2), but *that* they are advanced is paramount. Fundamentally, flexibility cannot come at the expense of the achievement of the Broadcasting Policy for Canada. At a certain point, the "how" can affect the "what" and that point is reached, we submit, at or around the statements like, "Specific contribution requirements should not be mandated." Moreover, to our knowledge, the streamers and broadcasters opposing many of the aspects of the Commission's model have not engaged in a s. 5(3) analysis, a gaping hole in their commentary that is highly conspicuous by its absence.

14. It is also worth noting how these criticisms of a number of the Commission's proposals are not accompanied by substantive alternatives. For example, the MPA-Canada states that, "this is an opportune time to innovate and to explore new models, which can be adapted to suit the various business models and programming strategies of different players, in a modernized broadcasting system of the future."[20] Yet the MPA-Canada does not follow through on this statement, providing no meaningful alternatives with any degree of substance or detail. We are told it is time to innovate and explore new models, yet no innovation is presented, and no new models are offered. It's as if they are saying, "There's a better way to do this…but we're not going to tell you what it is, just don't do what you have proposed to do." These kinds of arguments that seek to halt, "pause" or upend an entire regulatory model while offering nothing in its place would be another example of seeking to inappropriately reverse the actual priority as between the Broadcasting Policy and Regulatory Policy in the Act.

15. The streamers are not alone in this. Rogers Communications Inc. (Rogers), for example, employs similar rhetoric when it laments that, "Outdated regulatory tools that ignore market realities and rely on prescriptive, anachronistic requirements and fees must be eliminated and the framework must transition towards incenting Canadian companies to continue investing and innovating in areas that align with their business priorities."[21] This makes for dramatic reading, but in Rogers' 62 pages and nearly 22,000 words of written intervention, we can discern no bold vision for what this actually means. All we can see are proposals for Rogers to do less Canadian programming, invest less in the Canadian broadcasting system, and generally withdraw from the stage as a meaningful participant in Canadian content. Replacing the substance of regulation with the rhetoric of opposition is mere obstructionism and should be treated as such.

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[19] *Broadcasting Act*, section 5(3).
[20] MPA-Canada, para. 11(a)(ii).
[21] Rogers, para. 30.

16. Many interveners quote (cherry-picked elements of) certain procedural items in the Draft Policy Direction with approval, but the Draft Policy Direction is just that—a draft. It is not final, it was still open for public consultation until 11:59pm Eastern Time on July 25, and it is not in force as of the date of either the initial written submissions in this proceeding or the reply comments. As such, it is not binding on the Commission, and may indeed be subject to change before it is. It makes no sense, therefore, for interveners to argue that the Commission must comport itself in compliance with the Draft Policy Direction, be that under their particular interpretation of it, or otherwise. The Commission is an arm's-length body with independence from government, and it is appropriate for the Commission to continue to exercise that independence unless and until it is limited by a Policy Direction that is actually in force.

17. Even if the Draft Policy Direction were in force, however, exactly as written, the WGC disagrees with a number of interveners' interpretations of it. Firstly, again, the Draft Policy Direction is fundamentally about supporting Canadian programming, as stated in one of its earliest sections, and includes provisions on: the Commission imposing "requirements on broadcasting undertakings that ensure that the Canadian broadcasting system…strongly supports a wide range of Canadian programming and Canadian creators";[22] that, "the sector maximizes the use of Canadian creative and other human resources in the creation, production and presentation of programming in the Canadian broadcasting system";[23] and, that the determination of Canadian programming, "support Canadians holding a broad range of key creative positions, in particular those with a high degree of creative control or visibility."[24] The CAB goes so far as to claim that the Draft Policy Direction supports their argument for immediate "regulatory relief", even though this would clearly undercut these substantive statements of the Draft Policy Direction. The WGC disagrees with the CAB fundamentally. Again, any policy direction must be read holistically and purposively, and the "procedural" or "regulatory policy" tail should not be wagging the "cultural policy" dog.

18. Secondly, some intervenors have suggested that the Draft Policy Direction somehow prevents or prohibits some of the steps that the Commission has taken in this process so far. For example, the MPA-Canada suggests that section 12(e) of the Draft Policy Direction is inconsistent with the Commission's "initial base contribution" proposal, because the former directs the Commission to, "prioritize the imposition of requirements to make expenditures directly on the creation, production and presentation of Canadian programming."[25] But "prioritize" does not necessarily mean "first", nor does it mean, "exclusively." The Commission can "prioritize" something while also including amongst that priority other matters, and proceeding with them concurrently. Indeed, multiple interveners and the Commission itself has spoken to the interconnectedness of issues, as well as to the time-sensitive nature of this proceeding.[26]

19. Additionally, section 12(e) of the Draft Policy Direction makes its direction subject to, "where [it is] appropriate for a given business model and set of objectives." The Commission has multiple objectives, some of which it is indeed appropriate to address with an initial base contribution as

[22] Draft Policy Direction, s. 4.
[23] Draft Policy Direction, s. 9.
[24] Draft Policy Direction, s. 13(b).
[25] MPA-Canada, para. 23(c).
[26] As does the Draft Policy Direction itself, at s. 19.

proposed. In our view, the Commission's work so far is therefore not inconsistent with the Draft Policy Direction.

20. In summary, a number of interveners—generally online undertakings and traditional Canadian broadcasters—have sought to cherry-pick certain procedural principles from the Act, the Draft Policy Direction, or otherwise[27] in an apparent attempt to slow down or stop the Commission's process, to undermine the substantive core of the *Broadcasting Act*'s purpose, or both. The WGC submits that the Commission should reject these arguments.

The creation and presentation of Canadian programming must be at the core of the Canadian broadcasting system

21. At the core of the *Broadcasting Act* is the creation and presentation of Canadian programming. By our count, the words "program(s)" or "programming" appear over 40 times in the Broadcasting Policy for Canada objectives alone, with almost every reference being to *Canadian* programming, either expressly or by implication. And that does not count objectives that can only be meaningfully realized by Canadian programming, such as, "serv[ing] to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada."[28]

22. Given this, it is concerning that some interveners seek to have a variety of their non-Canadian-programming activities recognized as contributing to the objectives of the Act. Perhaps most notable are the comments of the MPA-Canada and its members, who clearly wish for their investments in foreign location service production (FLS) to "count" towards the Act's objectives. For example, the MPA-Canada cites, "85% of total growth in film, television and streaming production across the country,"[29] the vast majority of which has been from FLS, as well as the $6.71 billion in FLS itself,[30] and concludes that, "All of these very sizeable tangible and intangible contributions to the Canadian broadcasting system must be factored into the contribution framework for foreign online undertakings."[31]

23. The simple fact, however, is that FLS is not Canadian programming, FLS has never been considered as furthering of the objectives of the *Broadcasting Act* before, and FLS should not be considered as such now. To reiterate our initial written submission, FLS production is irrelevant to this discussion. Whatever economic benefits it provides to Canada, FLS is not Canadian programming production. It is not what the *Broadcasting Act* seeks to support, and it never has been. FLS production is simply something that predominantly American media companies do to reduce their own production expenses by shooting in lower-cost jurisdictions where they can take advantage of less expensive

[27] For example, Amazon points to what it claims is a lack of "robust, up-to-date data" on the expenditures being made by online undertakings in Canada, and encourages the Commission to "take pause" as a result. And yet Amazon does not set out exactly what that data would include, and provides none of this data itself, beyond anecdotal examples, despite presumably being in possession of at least some of it. We submit that no such "pause" is necessary. The Commission is in the process of collecting information now, during this proceeding, and Amazon is free to provide the information it believes is relevant in that context. (See Amazon, paras. 8-9).
[28] *Broadcasting Act*, s. 3(1)(d)(i).
[29] MPA-Canada, para. 51.
[30] MPA-Canada, para. 53.
[31] MPA-Canada, para. 62.

services, local tax credits, and favourable exchange rates on the U.S. dollar. These productions are creatively driven from Hollywood and can be shot anywhere—Canada just happens to be convenient. The Act does not state that FLS production is a broadcasting policy objective, there is no cultural or economic problem regarding FLS that the Commission needs to solve, and the Commission has never implemented policies to support FLS creation and presentation. FLS is as relevant to the *Broadcasting Act* as the branch factory of General Motors in Oshawa, Ontario building the Chevrolet Silverado—the jobs may be welcome, but it is not a domestic company making a domestic product designed and created by Canadians and reflecting domestic Canadian audiences.

24. Canadian broadcasters are also seeking to expand the ambit of what they purport the *Broadcasting Act* is all about. Rogers, for example, argues that, as a broadcasting distribution undertaking (BDU), their, "most important contribution to Canada's broadcasting system is our network, which enables Canadians across the country to access high-quality content, including predominantly Canadian programming services."[32]

25. This argument seeks to reduce Rogers' contribution to the broadcasting system to a telecommunication-like role, in which it merely offers "pipes" that others fill with content—and makes incredibly healthy profits off of—while minimally contributing, if at all, to the content itself.

26. The WGC submits that all of these attempts to find something, anything, *other* than Canadian programming made by Canadian creators for Canadian audiences to contribute to the Canadian broadcasting system, should be rejected. The Act exists to support Canadian programming, and broadcasting undertakings should not be able to present a laundry list of non-Canadian-programming activities to make up the bulk, or even a significant portion, of their contribution to that system.

"Regulatory relief" from traditional Canadian broadcasters

27. BCE Inc. (Bell) states its view that, "the Commission has overlooked what should be the first priority in leveling the playing field between traditional broadcasters and online undertakings, which is the immediate easing of regulatory requirements for traditional broadcasters."[33] Bell is joined by Rogers and Corus Entertainment Inc. (Corus) in calling for the same or similar "regulatory relief." As the Commission is aware, Bell, Rogers, and Corus have also filed separate applications seeking immediate reductions in their regulatory obligations to contribute to Canadian programming.[34]

28. The WGC has opposed each of those applications separately, and opposes the same substantive requests in the context of this proceeding. The WGC reiterates its comments, as already filed with the Commission, in respect of each of those applications.

29. Generally, the traditional broadcasters seeking this regulatory relief use the same tactics described above in this document under, "The Broadcasting Act is about cultural objectives, first and foremost".

[32] Rogers, para. 27.
[33] Bell, para. 24.
[34] Bell, Application No. 2023-0379-1; Corus, Application No. 2022-0946-0; and, Rogers, Application No. 2023-0373-3.

They cherry-pick from the Act and the not-yet-in-force Draft Policy Direction, seeking to have the regulatory-policy tail wag the cultural-policy dog.

30. In addition, the broadcasters fundamentally fail to explain why *equitable* treatment between players requires *lower* obligations for them. Simply put, it does not. Equitable means equitable, it does not mean lesser, lower, or towards a lowest common denominator. The WGC spoke of this in our initial written comments in this proceeding and we will reiterate it here. The promise of the *Online Streaming Act* was not a race to the regulatory bottom. "Leveling the playing field" means *leveling* the playing field, not lowering it. Indeed, a "level playing field" can also be a *higher* playing field. The traditional broadcasters are reasonable in seeking equity. But equity does not mean reductions. It simply means equity.

31. Traditional broadcasters seem to want the Commission to take into account their past history of contributions to the Canadian broadcasting system. Corus, for example, says that, if the Commission were simply to apply new contribution requirements to online undertakings, "it would overlook the contributions that Canadian broadcasting ownership groups and undertakings have made to the policy objectives of the Act for decades."[35]

32. Firstly, this is a proceeding about, among other things, setting equitable contribution requirements for the future. The outcomes of this proceeding will apply to the future. The Commission's role is not to give some form of retroactive credit for past behaviour. That said, if broadcasters' past contributions *are* to be considered going forward, so too, surely, must their past revenues. The CAB itself says that, "holding a broadcasting licence no longer guarantees profitability,"[36] which clearly implies that it once did. It's worth pausing on that. The CAB is acknowledging that *a broadcasting licence once guaranteed profitability for its holder.* For decades, then Canadian broadcasters have reaped the rewards for that profitability.

33. Commission data shows that private conventional television broadcasters and discretionary television services alone—i.e. not including radio, BDUs, and on-demand services—earned $55.2 billion in revenues and had profit before interest and tax (PBIT) of $8.2 billion in the last decade (from 2013-2022). In 2022 alone, revenues were $5.4 billion and PBIT was $523 million.[37] All of these numbers are significantly higher for the Canadian broadcasting system as a whole when radio, BDUs, and on-demand services are included. We would argue, therefore, and the data clearly show, that the licences held by Canadian television broadcasters have been and continue to be highly profitable as a whole.

34. Canadian broadcasters made enormous sums of money for their managers and shareholders for decades. They may now want to take those fortunes and ride into the sunset, but we submit that the Commission should not let them. This proceeding is about the future much more than the past, so what broadcasters spent on Canadian programming—presumably for their audiences, and against which they sold advertising, by the way—a decade ago is not relevant to what is fair for them to spend a decade from now. But if they really do want to talk about the past, then they must add their past revenues and profits to the ledger. And with that, the Commission must consider the justice—or distinct lack thereof—of a sector profiting so successfully from a "guaranteed" position for so long,

[35] Corus, para. 26.
[36] CAB, para. 4.
[37] CRTC Statistical and Financial Summaries.

and then being allowed to slash their contributions to public policy objectives as soon as that guarantee is not longer there.

35. Of particular note, in our view, is Rogers' entirely unsubstantiated claim that, "the existing contribution levels imposed on traditional Canadian broadcasting undertakings are excessive and no longer serve the public interest."[38] This is a bold claim that Rogers does not deem fit to support with any evidence that we can see. Spending less than a third of revenues on Canadian programming—presumably the entire *raison d'etre* of a Canadian broadcaster—doesn't serve the public interest? Mere single-digit percentages on programs of national interest (PNI) doesn't serve the public interest? But *lower* contributions would? How? Rogers doesn't say. Strangely, Rogers later says, "As explained in response to Question 6, it is not in the public interest to maintain traditional broadcasting undertakings' existing contribution requirements…".[39] The WGC, however, is still waiting for that explanation. In our view, Rogers doesn't explain anything in this regard—they just say it and move on.

36. In the WGC's view, if Canadian broadcasters don't want to invest in Canadian programming, then there is no need for them to exist. Full stop. If they cannot survive except by being a protected "middleman" for foreign content in the system, then they do not deserve to survive. Canadian audiences and creators will get along without them, as both migrate to foreign services. It will be a sad day for a certain vision of the Canadian broadcasting system, but the traditional Canadian broadcasters will have put themselves, and the rest of us, in that position.

37. The WGC opposes broadcasters' claims to reduce their regulatory obligations to support Canadian programming, including reductions in PNI. Broadly speaking, the Commission should bring online undertakings up to the level of traditional broadcasters, not reduce traditional broadcasters' requirements below what they currently are.

Contribution levels to Canadian programming

38. Some interveners provide proposals or models on new contribution levels to Canadian programming, either for the initial base contribution, or overall. The WGC cannot comment in detail on every single proposal put forward, but we will make select comments at this time on some.

The Armstrong Model

39. Bell puts forward what it calls "The Armstrong Model," which it says, "demonstrates that a 20% contribution from foreign online undertakings offering audiovisual programming would represent hundreds of millions of additional dollars in contributions."[40]

40. The WGC does not agree with the Armstrong Model, and considers it to be deeply misleading and flawed. In its comparison with current obligations, the model combines all "Canadian Linear CPE" together and, in the process, obscures differences and distinctions within that category that Commission policies have recognized for decades. In combining English and French CPE, the Armstrong Model ignores the "protection" that the French language affords against English-language,

[38] Rogers, para. 61.
[39] Rogers, para. 73(b).
[40] Bell, para. 10, Appendix "A".

largely American content. And, in combining mainstream sports CPE with other CPE, the report ignores the broad popularity and profitability of sports programming, which the Commission has recognized means that sports channels should be excluded from the group-based licensing model, for example.[41] Indeed, the report states that, "for this analysis, it is assumed that even if the CPE requirement for all Canadian television programming services were to be reduced to 20% of previous year revenues…some Canadian television programing services would be unlikely to implement such a reduction," and that these services are as would be expected, namely, "French-language private conventional and discretionary services and English-language mainstream news and sports services."[42] As such, the report acknowledges that the model would be depriving of support the services and genres that need it. Most notably of all, the Armstrong Report makes no allowances for PNI, which we would expect to be the hardest hit under this model.

41. From our perspective, the Armstrong Model is a proposal that would undermine support for the genres and services that are most in need of regulatory support, particularly PNI, while pointing to the continued existence of genres and services that are least in need of support as if that's a success story. It's not a success story. It's a prescription for the extinction of PNI on Canadian broadcasting services, and a nail in the coffin of Canadian creators, particularly Canadian screenwriters.

Rogers' Proposal

42. For its part, Rogers proposes, "an initial base contribution applicable to foreign and unaffiliated online undertakings of 2% of gross revenues from Canadian broadcasting activities."[43] Rogers' proposal is premised on the expectation that the Commission will lower the base contribution level imposed on Rogers to 2%, or lower,[44] and bases the number on, "total direct contributions amount[ing] to $418.1 million or 2.66% of the total BDU, radio, and television revenues ($15.7 billion)" in 2021.[45]

43. This throwing together of completely disparate elements of the broadcasting system with completely disparate business models is entirely an inappropriate way to achieve a meaningful contribution proposal. In particular, it combines radio and television, which are vastly different business models with vastly different contribution regimes reflecting that. Television fundamentally operates through exclusive content rights, with original programming being commissioned and partly financed by broadcasters, who then obtain exclusive windows to present the program. Radio doesn't work that way at all. Radio stations do not "commission original songs," but rather they play a variety of music to which they do not have exclusive rights. Music production is also significantly cheaper than television production to produce, particularly in PNI genres like drama, with contribution regimes also reflecting this. Mixing together TV and radio is a completely inappropriate way to reach a contribution number for audiovisual services, which is one of the questions facing the Commission. We submit that the Rogers proposal should be rejected.

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[41] See Broadcasting Regulatory Policy CRTC 2010-167, paras 120-121. The Commission said, "mainstream sports and national news specialty services do not require regulatory support as these services currently have among the highest levels of CPE and exhibition of Canadian programming."

[42] Application of Bell, Appendix 3, Canadian Programming Expenditure and Contribution Model, Methodology Note 3.

[43] Rogers, para. 73.

[44] Rogers, para. 74.

[45] Rogers, para. 73(a.).

Roku

44. Roku, Inc. (Roku) proposes that an online service making high-quality content available free of charge to consumers is, "already making a valuable contribution to the Canadian broadcasting system, and should be exempt from regulatory requirements to make further financial contributions."[46] The WGC opposes this proposal. Merely making content available freely to consumers—presumably, an ad-supported business model—does not, but itself, fulfill the objectives of the *Broadcasting Act* and, as the Commission wells knows, conventional over-the-air television and radio have operated under just such a model for decades while still also having regulatory obligations.

Michael Geist

45. Professor Michael Geist (Geist) argues that, "contribution requirements must be sufficiently flexible to ensure that Canada is not viewed as an outlier with regard to expenditure requirements such that global undertakings consider exiting the market,"[47] and, proposes an initial base contribution not exceeding 1.5% of an online undertaking's applicable annual revenues, suggesting that anything above that would lead to "market exit" of online undertakings.[48] The WGC submits that Geist's proposal is deeply flawed, disconnected from the *Broadcasting Act* and its objectives, based on inaccurate information, and should be rejected.

46. Geist's proposal appears fundamentally rooted in two things: a) avoiding international "outlier" status"; and, b) fear of "market exit" by online undertakings. Geist warns against becoming an "outlier" at least eight times in his submissions, and refers to "exit," "withdrawal" or the like at least 13 times. He treats these concepts like mantras, as if their repetition makes them a reality. Unfortunately, with respect to "outlying," Geist never bothers to actually establish why this should be an objective in the first place. Canada is *already* an international outlier in many respects. We have amongst the highest quality of life in the world. We have global-outlying levels of wealth, we have global-outlying qualities of health care and education, and are global outliers with respect to individual freedoms and democracy. We *want* Canada to be a global outlier in many respects, where that means we are achieving more and doing better than the rest of the world. Geist acts as if "being an outlier" is intrinsically bad. It is not bad, unless your sole value in life is mindless conformity. Beyond this, Geist has little, if anything, to say about the values or objectives that motivate his "outlier" concerns, suggesting that conformity is, indeed, the sole value at play.

47. With respect to "market exit," Geist provides no evidence of such a concern, save for one, Denmark.[49] Unfortunately for him, however, this example was not a market exit caused by regulation, because the actions of the streamers he cites were not primarily caused by government action, and they did not actually exit the market.

48. As chance would have it, the WGC was in Denmark in October, 2022 for the annual meeting of the International Affiliation of Writers Guilds, and we have been in touch with our European colleagues

[46] Roku, pg. 1.
[47] Geist, para. 2.
[48] Geist, para. 13.
[49] Geist, paras. 28-36.

on this matter. As such, we can report that Geist's account of what happened is misleading at best. Despite his suggestion to the contrary, it was not primarily the 6% streaming levy that caused Netflix, Viaplay, and TV2 to pause production in Denmark, but the rights framework agreed to by Create Denmark. It was largely this that caused the streamers to pause production. As was reported in November, 2022,[50] Netflix reached a deal with Create Denmark to resume commissioning Danish content, and was quoted as follows:

> "It has been our highest priority to resume commissioning and developing great Danish content. We are therefore delighted that we have secured a fair agreement with the Danish unions. We are proud to contribute to the growth of the Danish audiovisual sector and we look forward to building on our relationships with the talented Danish creative community," said Rachel C. Schumacher, senior counsel, international labour relations, Netflix.

49. At the time of this statement, the 6% Danish government levy was still very much on the table. Geist states that, "Once it was agreed that the levy would be postponed and individual terms were agreed to between Create Denmark and each streamer on the rights issue, production restarted."[51] Yet Geist's own source[52] fails to support this, reporting, at the same time that content commissioning was resuming, that:

> … there is still uncertainty over a proposed levy on the streamers. In mid-2022, the Danish government proposed a 6% levy on all streamers' turnover in Denmark. As Foldager Sorensen explains: "They never finished the lawmaking and nobody knows what it's going to look like."

50. Geist's own source makes no mention of an agreement to postpone the levy, and Netflix clearly resumed production while the issue of the levy was—and still is—outstanding. This "interpretation" of the facts by Geist—that the production stoppage was both caused and resolved by Danish government action around the 6% levy—is misleading in the extreme, and does not even reflect his own sources.

51. Further, the streamers in question paused production, they did not "exit" Denmark. All three streamers remained in the Danish market, serving Danish audiences, and they are there today. As of now, many of the disagreements have been ironed out and Denmark is on its way to imposing a 5% levy, just one percent less than the 6% previously proposed, and a far cry from the 1.5% that Geist suggests.

52. Finally in this respect, we must distinguish between public threats by corporations to punish countries for regulation, and their likely actions, as balanced against the public interest. Geist says that, "contribution requirements must be sufficiently flexible to ensure that Canada is not viewed as an outlier with regard to expenditure requirements such that global undertakings consider exiting the

[50] https://www.screendaily.com/news/netflix-reaches-landmark-rights-agreement-with-create-denmark-exclusive/5176920.article.
[51] Geist, para. 32.
[52] https://www.screendaily.com/features/what-has-been-the-cost-of-denmarks-landmark-streaming-deal-to-the-stalled-local-industry/5177436.article.

market."[53] This, we submit, is an extreme position indeed. It would purport to stop regulation in its tracks if global corporations even *consider* exiting Canada over it. This test asks the Commission to read the minds of corporate executives, and/or would effectively ensure that no regulation is possible, because "market exit" can always be a corporate "consideration" at any time. And since a public threat would be evidence of "consideration," Geist's proposal would require the Commission to halt at any such threat, making Canada effectively subservient to these corporate interests, based on their boardroom conversations, news releases, or both. Rather, we submit, while the Commission can certainly contemplate likely corporate responses as part of its analysis, it should ultimately put the public interest, including the public interest from regulation, ahead of the mere considerations—or the threats—of global corporations.

53. Geist's concerns about "outlying" are without merit and his claims about Denmark are deeply misleading, but his model also is flawed in the way that it suggests that 1.5% is some kind of global standard. It is not. As Geist himself admits, investment obligations in Europe are found in France and Italy at 20-25%, and the remaining European examples range between 0.5% and 5%.[54] It is simply mind boggling to us that anybody could look at a range from 0.5% to 25%—or even 0.5% to 5%—and then decide, based on that, that 1.5% is the "global standard," or is otherwise the right number for Canada not to be a "global outlier".

54. Also missing from Geist's analysis is any contextual assessment for those countries with lower investment obligations, including what other cultural policy tools are at play, in addition to investment obligations for online undertakings and, crucially, what kind of *success* those countries are having with those policies. Countries employ a variety of cultural policy tools to support their domestic audiovisual sectors, including direct government investment, public service broadcasters, funds with specific sources, like national lotteries, and licence fees. Countries may choose any mix of these based on any number of criteria. Countries may also choose to prioritize cultural policy at different levels, again based on any number of criteria, including the extent to which they feel factors such as language or history impact their policies. Geist's analysis ignores all of this. Geist simply takes a set of European countries, lines them up in a row, ignores any other factor at play, and decides that between 25% and 0.5%, 6% will cause market exit (but 25% hasn't, for some reason), so the right number for Canada is 1.5% or else Netflix will leave the country.

55. This is not serious analysis, and we submit that the Commission should treat it as such.

56. Finally, it's worth commenting on when Geist says:

> To attempt symmetry between traditional and online undertakings would be to deny the fundamental differences between services delivered over the open internet and those delivered over traditional closed broadcasting systems. Unlike scarcity-based traditional broadcast formats, the internet is an open global market.[55]

57. This is simply 1990's-era Internet-utopian double talk. The *Broadcasting Act* does not regulate "the open internet," it regulates "broadcasting undertakings" that operate, among other places, on the

[53] Geist, para. 2. Emphasis added.
[54] Geist, para. 26.
[55] Geist, para. 80.

Internet. The "scarcity" at issue is not bandwidth or "shelf space," it is financing to create programming, and the Internet did not create "unlimited financing" for programming. In that respect, traditional and online undertakings, when it comes to the curated streamers like Netflix, Disney+, and so on, are not "fundamentally different", they are fundamentally the same. They both raising financing from limited sources, they hire content commissioners who made editorial choices, they hire writers, directors, actors, and technicians from the same talent pools, they use the same cameras, they shoot and edit in the same continuity style, they tell narrative stories with characters and settings, people watch the content on screens, and the streamers and broadcasters submit the productions to all the same awards shows, where they compete directly against each other, because to audiences they are fundamentally the same thing. 1990's-era technobabble should stay in the 1990s.

Drama, children's programming, and other PNI genres

58. As we stated in our initial written submission to this proceeding, the question of program categories—or genres of programming—is central to Canadian broadcasting regulation. The Act exists because market forces alone do not result in the production of sufficient quality and quantity of Canadian programming, particularly in risky and expensive genres like drama. The Commission formally recognizes 15 categories of television program, which are not equal when it comes to their need for regulatory support or their value to the Canadian broadcasting system. In particular, the Commission has recognized, in the category of PNI that, "there is a continuing need for regulatory support for key genres of Canadian programming," and that, "Drama programs and documentary programs are expensive and difficult to produce, yet are central vehicles for communicating Canadian stories and values." [56] The Act itself reflects this concern with particular types of programming, and we ask the Commission to keep this question of genres, including PNI genres, always firmly in mind.

59. As such, we continue to oppose models or proposals that ignore the needs of particular genres, seek "flexibility" that would remove protections for certain genres, like PNI, and/or that pit one genre of important Canadian programming against another.

60. In particular, we oppose the proposal of Rogers to change the contribution regime to be "content agnostic," such that, "all Canadian content should have funding support, both in terms of accessing funding to create it and in respect of Commission regulations."[57] Not all genres of Canadian programming are in need of the same type or level of support, so it makes no sense to be "agnostic" about their funding when their financing realities are anything but.

61. Even where other genres of programming are important and in need of regulatory support, such as local news, these genres should not be pitted against PNI genres as a reason—or, too often, as an excuse—to not support, or under-support, PNI. Both types of programming are important, as the Commission has already acknowledged. It is worth driving home this point in the words of former

[56] Broadcasting Regulatory Policy CRTC 2010-167, para. 71. The WGC notes that according to the latest CRTC Communications Market Reports Open data files, drama and comedy programs (Category 7) remained the most watched programming in Canada by a wide margin in both the English- and French-language markets (in each year from 2018 to 2021).
[57] Rogers, para. 80.

WGC Council Member, the late Denis McGrath, who described the important links between drama and social issues:

> 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.
>
> …
>
> 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.
>
> …
>
> 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?[58]

62. Denis's words, written seven years ago, are just as relevant and powerful today, if not more so. They help demonstrate that the grand national project that is the Canadian broadcasting system is not just about entertainment, it's about our society and our country, and what a mirror broadcasting, and culture can be, to who we are and who we want to be, as Canadians.

[58] https://cartt.ca/commentary-when-your-moral-compass-doesnt-point-true-north/

Definition of Canadian program

63. The WGC has spoken previously about elements of the definition of "Canadian program," including the central role of screenwriters in the "writer's medium" of television and that Canadian screenwriters and showrunners are the Canadian authorial voice of the medium. The WGC vigorously supports the centrality of Canadian screenwriters in the system, and a 10-point definition of Canadian content using 10-point scale.

64. As such, the WGC disagrees with a number of the comments made in this regard by the New York-headquartered International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, its Territories and Canada (IATSE), which represents primarily technicians and craftspeople, many of whom work extensively on FLS productions. In particular, we oppose the proposals for the elimination of intellectual property requirements,[59] we oppose expanding the 10-point system to new roles,[60] we oppose modeling the Canadian system on the system used in the United Kingdom (UK),[61] and we oppose creating categories of program that are "partly Canadian."[62]

65. None of IATSE's proposals would "incentivize [broadcasting] undertakings to source more Canadian content and partner with more Canadian creators,"[63] and IATSE provides no evidence why they would. Simply lowering requirements to use fewer Canadian key creatives, or to count positions that have not demonstrated any challenges being engaged on FLS or other production, would not create an "incentive" to engage Canadians in those roles. All it would do is allow the roles that broadcasting undertakings, or the producers that work with them, are already filling with Canadians to count towards meeting the definition of "Canadian program," thereby ensuring that those broadcasting undertakings *don't* have to engage Canadians in other key creative roles, like screenwriter. This would be the *opposite* of an incentive—it would be a disincentive and permission to stack the deck with Americans.

66. As it pertains to the UK, comparisons between the British and Canadian situations need to actually take all relevant factors into consideration. British success in audiovisual content creation does not come from their definition of national content, and IATSE has not provided any evidence that it does. Rather, the relative success of the UK audiovisual sector almost certainly comes from a long track record of higher investment in their industry. The UK invests vastly more public/regulated money into its national content industry, with nearly $6.5 billion CAD annually to the British Broadcasting Corporation (BBC) alone.[64] The British communications regulator, Ofcom, also sets specific quota compliance obligations in the Channel 3, Channel 4, and Channel 5 licences,[65] in addition to $1.35 billion CAD in creative industries tax relief paid out in 2021-2022 for film, high-end TV, animation, and

[59] IATSE, paras. 51-54.
[60] IATSE, paras. 55-56.
[61] IATSE, paras. 58-59.
[62] IATSE, paras. 60-61.
[63] IATSE, para. 50.
[64] UK Parliament, House of Common Library, Research Briefing, TV licence fee statistics, Published 9 March 2023 (https://commonslibrary.parliament.uk/research-briefings/cbp-8101/).
[65] Ofcomm, Public service broadcasting annual report: 2022 (https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/psb/annual-report-2022).

children's TV.[66] The UK has invested at this high level consistently for many decades, creating a deeper talent pool and much more robust foundation for the sector. This can more easily stand on its own amidst international competition. At the same time, it can allow more "flexibility" because a few shows written, for example, by non-UK citizens amidst a more robust pool of UK-written shows does not effectively decimate the opportunities for UK writers, as it would here in Canada given our smaller industry. Greater geographical and linguistic distance from the United States has further protected the UK industry. These essential differences between the UK and Canada mean that we cannot simply transplant policies from one to the other. We need a Made-in-Canada approach to the definition of Canadian content. If we adopt the more flexible UK approach, we will simply be ignoring the challenges that have necessitated the *Broadcasting Act* in the first place, undercutting its very purpose to support Canadian creators.

67. With respect to IATSE's proposal on "partly Canadian" content, we see no reason to adopt such an approach. On the contrary, providing "credit" for something that's only "partly Canadian" will only incentivize broadcasting undertakings to take as great advantage of the designation as possible, engaging fewer Canadian creators as a result. And with foreign online undertakings having deep pockets, they'll be easily able to "leave incentives on the table" in exchange for the greater production control such an opening will provide them.

68. Finally, we disagree with IATSE that section 3(1)(f.1) of the Act must be, "interpreted and applied with the practical realities of foreign undertakings in mind," lest we, "discourage undertakings from sourcing Canadian content and partnering with Canadian creators."[67] We submit that s. 3(1)(f.1) must be read in harmony with the entire Act, with the goal of giving full effect to its objectives, which include the maintenance and enhancement of national identity and cultural sovereignty;[68] serving to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada;[69] and, encouraging the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity.[70] In addition, the Act directs the Commission to consider, "whether key creative positions in the production of a program are primarily held by Canadians."[71] And, while not yet in force, the Draft Policy Direction requires the Commission to, "support Canadians holding a broad range of key creative positions, in particular those with a high degree of creative control or visibility," when determining what constitutes Canadian programming.[72] The Draft Policy Direction further states that:

> the Commission is directed to ensure that the sector maximizes the use of Canadian creative and other human resources in the creation, production and presentation of programming in the Canadian broadcasting system, taking into account the effects of broadcasting

[66] UK Government, Official Statistics, Creative industries statistics commentary: August 2022, Published 18 August 2022 (https://www.gov.uk/government/statistics/creative-industries-statistics-august-2022/creative-industries-statistics-commentary-august-2022).
[67] IATSE, paras. 62-71.
[68] *Broadcasting Act*, s. 3(1)(b).
[69] *Broadcasting Act*, s. 3(1)(d)(i).
[70] *Broadcasting Act*, s. 3(1)(d)(ii).
[71] *Broadcasting Act*, s. 10(1.1)(b).
[72] Section 13(b).

undertakings, including online undertakings, on economic opportunities and remuneration for creators.[73]

69. We submit that the Commission must take into account the totality of the applicable legislation and orders in force when it renders its decision in this regard.

Directing CPE to promotion

70. The MPA-Canada recommends that, "all broadcasting undertakings, including foreign online undertakings, should be given the flexibility to include marketing and promotional expenditures as part of any CPEs."[74]

71. The WGC opposes this proposal.

72. When the Commission allowed promotional expenses to count towards CPE, it did so only in a very limited way.[75] Firstly, this was only permitted for independent programming services—i.e. programming services not affiliated with a vertically integrated company. In that decision, it was stated:

> The Commission considers that for vertically integrated companies, there are already numerous opportunities to cross-promote programming on various services and platforms. The larger budgets available to the programming services owned or controlled by vertically integrated companies enable a greater scale and scope of promotion than those of which independent programming services are capable.
>
> Vertically integrated companies also benefit from considerable synergies in the promotion of their Canadian programs on their own services and have little need to cross-promote on other programming services.[76]

73. These considerations continue to apply to vertically integrated companies. They also clearly apply to the large foreign online undertakings represented by the MPA-Canada, which have even larger budgets than Canadian vertically integrated broadcasters. As such, this same reasoning should operate to deny the MPA-Canada's proposal, as well as any similar proposal from other interveners.

74. In addition to this, the Commission limited these promotional expenses to third-party promotion of Canadian programs and capped them at a maximum of 10% of their CPE. As we've stated before, the great risk of counting promotion costs towards CPE, absent other protections, is that it simply reduces spending on production while subsuming those dollars into existing marketing budgets already spent within the media companies, with the only real change being that less is spent on the creation of Canadian programming.

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[73] Section 9.
[74] MPA-Canada, para. 46.
[75] Broadcasting Regulatory Policy CRTC 2015-86, para. 70.
[76] Broadcasting Regulatory Policy CRTC 2015-86, paras. 66-67.

Indigenous programming, diversity, and inclusion

75. The following comments are in reply to the submissions of others to the below-noted questions in the Notice of Consultation of this proceeding.

Q9.

76. The WGC supports the Disability Screen Office (DSO) proposal of amending Certified Independent Production Fund (CIPF) criteria so CIPFs can align with the *Accessible Canada Act*.[77]

Q11.

77. While we oppose the creation of new "corporate" CIPFs as may be proposed by private broadcasting undertakings, the WGC supports the creation of funds created to address gaps in representation, disability and participation of sovereignty-seeking and equity seeking communities.

Q12.

78. The WGC supports the recommendations put forward by the Canadian Independent Screen Fund for Black and People of Colour Creators (CISF), and organizations like the Toronto Reel Asian International Film Festival (Reel Asian) and the Racial Equity Media Collective (REMC), that the CISF is uniquely positioned to support Black and racialized creators,[78] and should be prioritized to receive base contributions from undertakings and ownership groups destined to serve those communities.[79]

79. Further to this, we support statements from REMC, BIPOC TV & Film, and the Black Screen Office (BSO) that funds that have been established to support Canadian creators must also commit to reflect the diversity of Canada and support diverse creators.

80. The WGC strongly supports the DSO recommendation to direct funds to "bolster the talent pipeline for disabled creatives".[80] According to WGC's data, writers with disabilities represented 1.5% of working writers in 2021, with 1.7% of live action and 1% of animation jobs. These numbers make a strong argument for the need to support a talent pipeline of Canadian writers and other key creatives with disabilities.

Q13.

81. The WGC recommends the Commission engage further with Indigenous organizations such as the ISO, to determine an appropriate percentage of production funds to be dedicated to Indigenous video productions and audio projects. The WGC believes the Commission should consider the "historical exclusion of Indigenous peoples from the Canadian broadcasting system,"[81] and the systemic barriers to participate in this industry when determining such a percentage.

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[77] DSO, para 29.
[78] CISF, para 3.
[79] REMC, para 7.
[80] DSO, para 40.
[81] ISO, para 54.

Q14.

82. The WGC support the designation of the ISO as a CIPF to increase organizational capacity, increase support and maximum funding levels for production, and to bolster the talent pipeline of Indigenous creators.[82] The WGC believes the ISO has the expertise and experience necessary to fund Indigenous screen content and support Indigenous talent. The inclusion of the ISO as a new CIPF will give it a stable funding base to achieve its important mission.

83. We also support the certification of the Black Screen Office as a CIPF to fund "projects created by Black talent and on the job training of that Black talent, which will allow it to focus on skill development through production."[83] Such funding is aligned with the policy objectives for the Canadian broadcasting system to serve the needs of all Canadians, including Canadians from Black or other racialized communities.

84. The creation or the inclusion of new funds to address inclusion and diversity should not affect existing funding from entities such as the Canada Media Fund (CMF). As stated by the CMF in its own submission, all stakeholders in the Canadian broadcasting system have a responsibility to support Indigenous content.[84]

Q15.

85. The WGC supports a percentage of an undertaking's or ownership group's base contribution be directed to CISF or newly created funds dedicated to supporting diversity, inclusion and accessibility.

Q28.

86. The WGC agrees with the ISO that "strong, innovative and interesting content with high production values are the best way to ensure audience access and market discoverability."[85] As such, we reiterate our support for increasing funding levels for the ISO and the Aboriginal Peoples Television Network (APTN), and including the ISO as a CIPF.

Q29.

87. We support the ISO and APTN recommendations to direct funding for Indigenous language programming to APTN as it routinely commissions content in Indigenous languages, and where viewers routinely now go to seek out such content.[86]

[82] ISO, para 46.
[83] BSO, para 23.
[84] CMF, para 118.
[85] ISO, para 60.
[86] APTN, para 39.

Q30.

88. The WGC supports the ISO statement regarding the need to move past training programs and focus on hiring and job retention of key creative roles.[87] We agree with APTN that there should be requirements for a certain amount of top-line creative roles to be undertaken by an Indigenous person for a production to be qualified as Indigenous.[88]

Q31.

89. We believe the ISO is in the best position to increase the number of Indigenous artists through consultation with Indigenous communities and the creation of policies and programs specifically designed to serve those communities.

Q32.

90. The WGC shares BIPOC TV & Film's position that there is little to no evidence that training and industry development programs supported by online undertakings have supported the production and discoverability of diverse and inclusive content.[89]

91. Industry development initiatives play a role in creating a more diverse and inclusive Broadcasting system but should not replace production funding.

Q33.

92. We join the BSO in asking the Commission to implement a framework of expenditure requirements to support the creation of programing by creators from Black and other racialized communities. We believe incentives are not an appropriate tool to support these creators.[90]

Q34.

93. We support reporting requirements as an important tool to assess the engagement of creators from Black, racialized communities, Indigenous and LGBTQIA2S+. However, we join the Black Screen Office in stating that reportioning is not an incentive and should not be considered a tool to incentivize diversity and inclusion, but one to measure progress.[91]

Q36.

94. We echo the DSO calls to improve accessibility of programming as part of improving discoverability,[92] and recommend further consultation with the DSO to determine accessibility requirements of programming and materials created for discoverability.

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[87] APTN, para 62.
[88] APTN, para 44.
[89] BIPOC TV & Film, Q32. para 1.
[90] BSO, para 37.
[91] BSO, para 43.
[92] DSO, para 60.

Conclusion

95. We thank the Commission for the opportunity to participate in this process, and we look forward to discussing these matters further at the public hearing in November.

Yours very truly,

Neal McDougall
Assistant Executive Director, WGC

Cc: Victoria Shen, Executive Director, WGC
Council, WGC

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