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Monday, March 5, 2007

Hon. Beverley J. Oda
Minister of Canadian Heritage
House of Commons
Ottawa, Ontario
K1A 0A6

By email and mail

Dear Minister,

On behalf of the Board of Governors of the Canadian Conference of the Arts (CCA), I am writing to you today to express serious concerns about the March 1, 2007 announcement by the CRTC that it will hold a public hearing beginning April 30, 2007, with respect to the proposed purchase by CTVglobemedia Inc. of broadcasting stations and services now controlled by CHUM Limited.

As the oldest and most broadly based forum for cultural policy issues in Canada, the CCA has frequently intervened in regulatory matters pertaining to broadcasting issues. Our most recent interventions have dealt with the CRTC's review of its radio and television policies, as well as its request last summer for comments about the impact of changes in technology on Canada's broadcasting system.

What affects the Canadian broadcasting system is of concern to us because irrespective of distribution platforms, audiovisual content is the most consumed form of cultural expression in our country and constitutes a major facet of our cultural national identity.

The control and ownership of the radio, television and specialty services that produce and originate this audio-visual content, the vertical concentration of this ownership and how this impacts on the whole system, these are all important issues for public debate in the fast evolving universe of interactive digital distribution platforms and globalization of communications. In the view of the CCA, it is crucial to have an open and meaningful debate on such issues as they relate to the success and diversity of content available to Canadians which is reflective of our society at least as much as it is of our neighbouring country, the United States of America. .

During his recent appearance on March 1, 2007 before the House of Commons Heritage Committee, the new CRTC's Chairman, Mr. Konrad von Finckenstein, expressed his support for open, transparent and accountable decision-making. We value the CRTC's efforts to maximize public participation in its public proceedings. Public participation optimizes the

Canadian Conference of the Arts / Conférence canadienne des arts
804 -130 Albert Street, Ottawa, ON K1P 5G4 Tel (613) 238-3561 Fax (613) 238-4849
804-130, rue Albert, Ottawa (Ontario) K1P 5G4 tél. (613) 238-3561 Tlc. (613) 238-4849
www.ccarts.ca

information, analysis and diversity of views available to tribunals such as the CRTC and the institution has a long history of such public consultations which have helped it set the course for Canadian Broadcasting for nearly forty years.

While we welcome the CRTC's general commitment to open and transparent decision-making processes, we are very concerned about the timing and time restrictions imposed by Public Notice 2007-3 on clear headed discussion of the possible impacts on the cultural objectives of the Broadcasting Act of the current line up of mega-mergers.

The CRTC's April 5, 2007 deadline for public comment is unreasonably short **for an issue of such importance**. The CRTC asks that interventions be submitted with respect this hearing by April 5, 2007. The CTVglobemedia-CHUM transaction involves some sixty radio, television and specialty television broadcasting services. The CRTC's notice also invites comment on the CRTC's ownership policies, which are to be the object of open public debate for the first time ever.

35 days is clearly an insufficient time for members of the public and interested parties such as ourselves to review facts, assess historical data and intervene with respect to the impact of concentration of ownership on the production and distribution of audio-visual Canadian content in the interactive digital media environment.

If it had not suddenly decided to cut its investigation short, it was going to take more than seven months for the Competition Bureau to complete its review process from the advertising perspective alone. The CCA is deeply sceptical that a serious assessment of the cultural impact of such concentration of ownership as we are about to witness can be made under the CRTC fast-tracking scenario when it comes to the perspective of the *Broadcasting Act*.

To make things even more difficult for any meaningful public debate on the issues in front of the Commission, many other interrelated debates are going on in parallel arenas concerning the Canadian Television Fund and the mandate of the public broadcaster.

Moreover, would it not make more sense to wait for the CRTC to announce its new television policy before trying to assess how the concentration of ownership about to affect two other major players of the Canadian broadcasting industry will help support the CRTC policy and thence, the cultural objectives set in the *Broadcasting Act*?

As mentioned above, the CRTC has never held a public hearing to address important questions related to concentration of ownership. We would be interested to know the specific terms of reference for this review of CRTC policy. To our knowledge, the CRTC has never published any studies dealing with the effects on the production and distribution of Canadian cultural programming of the increasing concentration of ownership in the broadcasting sector and yet, it is poised to expedite work on major concentration of ownership transactions.

We understand that section 15 of the *Broadcasting Act, 1991* entitles you, as the Minister of Heritage, to direct the CRTC to hold a public hearing on any matter within the CRTC's jurisdiction. We are therefore asking you to request the CRTC to postpone its hearing on the CTVglobemedia acquisition of CHUM assets and to hold first a separate oral public hearing on ownership in Canadian broadcasting.

It seems reasonable that CTVglobemedia and CHUM would oppose a delay in a CRTC hearing to consider their transaction, on the grounds of economic or other harm. Unless there

is clear, well-documented and uncontrovertible evidence by CTVglobemedia and CHUM to establish major and irreparable harm, nothing should obviate the public interest in decisions that affect the use of the broadcasting spectrum owned by Canadians. In light of these realities, a delay in the CRTC's 30 April 2007 public hearing with respect to the CTVglobemedia-CHUM transaction is in our view both appropriate and necessary to ensure that the public interest is properly served in an open, transparent and accountable manner.

We thank you in advance for the attention you will give to this letter and wish you well in the challenges you currently face as Heritage Minister.

Yours truly,



Alain Pineau
National Director

Cc. Mr. Konrad von Finckenstein, Chair of the CRTC
Members of the House of Commons Standing Committee on Heritage