



Ottawa

November 2, 2009

Mr. Robert A. Morin
Secretary General
CRTC
Ottawa, ON
K1A 0N2

Dear Mr. Morin,

Re: Broadcasting Notice of Consultation CRTC 2009-614 (October 2, 2009)

Introduction

- 1 The Canadian Conference of the Arts (CCA) is the oldest and largest umbrella organization representing the full spectrum of the arts, culture and heritage sector in Canada, English and French. CCA's mission is to be the national forum for the arts and cultural community in Canada; to provide research, analysis and consultations on public policies affecting the arts, and the Canadian cultural institutions and industries; to foster informed public debate on policy issues, and to advance the cultural life of Canadians.
- 2 Because broadcasting is the dominant cultural medium and since the *Broadcasting Act* (the Act) contains the most complete expression of cultural policy ever adopted by Parliament, the CCA has participated actively in CRTC processes for decades, including on several occasions in the past four years as the Commission's agenda accelerated.
- 3 CCA is pleased to have this opportunity to participate in this consultation on a topic of fundamental interest to the Canadian audio-visual sector and to all Canadians. The questions raised by the Order in Council (OIC) and the whole media battle launched around the issue of "value for signal" or "fee for carriage" go to the heart of having a Canadian broadcasting system which corresponds to the cultural objectives set in the Act by Parliament and for which the Commission is accountable.

- 4 In summary.
 - CCA continues to support the introduction of a value for signal payment, provided that the CRTC also imposes Canadian programming expenditure requirements on OTA broadcasters.
 - Further, CCA urges the CRTC to re-regulate cable and satellite rates to ensure that this payment, as well as the Local Programming Improvement Fund (LPIF) contribution, is not passed along to consumers and to otherwise protect the consumer interest. .
- 5 CCA wishes to appear at the public hearing scheduled to commence on December 7, 2009 to elaborate on our views

The Order in Council and the issue of consumers' interests

- 6 The CCA fully shares the view expressed in Public Notice 2009-614 that:

“The Commission considers that its recommendations in response to the Order in Council should be formulated within the broad context of the overall well-being of the Canadian broadcasting system, taking into account these and any other relevant initiatives.”

- 7 On several occasions in the past three years, we have underlined the fact that the Commission's main purpose is to make sure that the needs and rights of Canadians to have access to Canadian programming as prescribed by the Act are met. We have also remarked on the fact that the Act states that irrespective of evolving technologies, “each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming.” (Art. 3, 1 (e))
- 8 CCA notes that the OIC refers to only two consumer interests at stake in the debate, namely cable rates and access to local news services. But, there are actually three consumer interests which the Commission should consider:
 - a) the subscription fees they pay for their cable/satellite services;
 - b) access to local news and information programming;
 - c) access to high quality Canadian drama and other underrepresented programming genres.

The interest in having a range of programming alternatives is indeed provided in the Act:

3. (i) *the programming provided by the Canadian broadcasting system should be varied and comprehensive, providing a balance of information, **enlightenment and entertainment** for men, women and children of all ages, interests and tastes, (emphasis added)*

- 9 The LPIFis designed to address the issue of access to local news and information programming. The CCA has applauded the fact that the Commission has decided to increase the BDUs' contribution to 1.5%. Given the structural problems related to funding local programming, problems which are increasingly acknowledged to go beyond any cyclical economic downturn, the CCA would strongly recommend that the Commission take advantage of the consensus reached by all political parties at the Standing Committee on Heritage in the June 2009 Report. This Committee recommended that the contribution be set at 2.5%. CCA also supports the Standing Committee's recommendation that, from this 2.5%, BDUs should allocate 1% to CBC/Radio-Canada, with at least 10% of this amount dedicated to official language minority communities. Under this formula 1.5% would be available for local private stations and independent producers.
- 10 CCA acknowledges that other factors, including the continuing economic uncertainty, the particular problems of CanWest Global Television and the transition to digital television, may negatively affect the access of Canadians to local programming, particularly in smaller markets. As these factors play out over the coming months and years, we will look to the CRTC to continue to monitor developments and to take whatever measures necessary to ensure that Canadians in every significant local/regional market have access to such programming.
- 11 As for the third issue, the "value for signal" proposition is in our view one part of how the Commission can deal with ensuring that Canadians have access to quality homegrown drama and other underrepresented programming.

The "value for signal" proposal

- 12 Accordingly, the CCA wants to take the opportunity of this latest consultation to reaffirm its support for the proposition that BDUs be required to pay for distributing the signals of local television services. Our support is contingent on the strict condition that the Commission adopt appropriate conditions of licence to make sure that the money transferred to OTA broadcasters be spent on the production of quality drama and other underrepresented programming, according to the specifics of the francophone and anglophone markets, as prescribed in the Act.
- 13 Accordingly, and in keeping with previous submissions on this issue, the CCA recommends that the Commission impose specific CPE targets on the OTA services, and a specific CPE requirement for drama and scripted comedy programs for English-language OTA broadcasters, as well as for TVA and Radio-Canada, through conditions of licence.
- 14 More specifically, CCA believes that a specific drama/scripted comedy CPE for the English-language OTA services of each broadcasting group should be established at 6% of gross revenues, if these revenues include a value for signal payment.

Protecting the financial interests of Canadians

- 15 The main issue raised by the OIC deals with the subscription fees which Canadians pay for cable or satellite services. This is an important issue indeed because, as the

OIC points out, the vast majority of Canadians receive their television broadcasting services, including Canadian over-the-air (OTA) television services, through distribution undertakings.

- 16 The CCA is particularly upset about the fact that BDUs are spending considerable amounts of money to position the LPIF and “value for money” as a “tax on television” which they have no choice but to pass on to their customers. We believe that this is a gross distortion of facts and a strategy to avoid their obligation under the Act to contribute to the production and dissemination of Canadian programs.
- 17 With profits of \$2 billion a year, we submit that BDUs can and should absorb the new contribution they would be asked to make to achieve the objectives of the Act. This is fully in conformity with the letter and spirit of the Act and the principles which led the Canadian Parliament over 40 years ago to legislate and regulate the Canadian broadcasting system, and to set up this Commission as its steward, to ensure that Canadians have access to their own programming, in all genres.
- 18 Given the present enormous imbalance in the system between the financial health of broadcasters on the one hand and BDUs on the other, and given the interests of consumers to have access to reasonable subscription rates for their cable and satellite services, we urge the Commission to re-regulate cable and satellite rates. The CRTC should then ensure that LPIF contributions and the value for signal payment are not passed along to consumers by BDUs. Furthermore, by re-regulating these rates, consumers would be able to intervene in the public processes that would be held by the Commission to determine future rates.
- 19 We would add that we do not think that there is any contradiction in maintaining mandatory carriage of OTA television signals and the imposition of a value for signal. The fact is that most Canadians receive their television services via cable and satellite undertakings, and Canadians expect that all of the local and national conventional television channels will be part of the core service they receive. Mandatory carriage and value for signal are simply two instruments which the Commission has the power to use to make sure that the Canadian broadcasting system meets the cultural objectives set by Parliament.
- 20 As a final comment, we submit that the Commission itself should determine the appropriate level for a value for signal payment, taking into account the impact this would have on both the broadcasters and the distribution undertakings. Given the tone that the debate has taken in recent months, it would be, in our opinion, both utopic and irresponsible to hope that such an issue can be determined through a direct negotiation between the parties involved.

Sincerely yours,



Alain Pineau
National Director

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