

CAB submission to the Standing Committee on
Canadian Heritage

*A full investigation of the role for a public broadcaster
in the 21st century*

by

the Canadian Association of Broadcasters

March 23, 2007



Executive Summary

The CAB believes the Standing Committee's current examination of the public broadcaster is a valuable first step in assessing how the CBC/Radio-Canada can best implement its public service mandate so that it remains relevant and supports a distinctive service that is complementary to that being offered by the private broadcasting sector.

By soliciting the views of the public and other interested parties, the Standing Committee will be in a position to identify those particular issues that require further study and/or clarification, providing a strong foundation for a more comprehensive study of the public broadcaster and the fulfillment of its mandate.

In this submission, the CAB has provided a brief overview of some of the key concerns of private broadcasters vis-à-vis the way in which CBC/Radio-Canada interprets and implements its mandate. In light of these concerns, the CAB makes the following recommendations:

- CBC/Radio-Canada should be required to publicly report detailed financial information relating to its owned and operated television networks, individual radio and specialty services and digital media platforms, rather than just the broadly aggregated information that it currently places on the public file.
- The government should give further consideration to the reliance of CBC/Radio-Canada's conventional television services on advertising revenues. In particular, the government should assess the impact of CBC/Radio-Canada's commercial activity on its ability to properly fulfill its public service mandate. The CAB submits that the ultimate goal should be to find ways to reduce the reliance of CBC/Radio-Canada on advertising revenues in the future.
- Programming of purely local interest, namely local news and information, should be left to the private television broadcasters operating in local markets. This would allow CBC/Radio-Canada to focus on its role as a national broadcaster, including strong regional input that reflects all parts of Canada. This should also be accompanied by a withdrawal from the sale of local advertising by CBC/Radio-Canada on its owned and operated stations.
- In moving into new digital platforms such as the Internet, CBC/Radio-Canada must ensure that its focus and resources remain on its core broadcasting services as the primary vehicles for the achievement of its mandate.

Introduction

1. The Canadian Association of Broadcasters (CAB) – the national voice of Canada’s private broadcasters, representing the vast majority of Canadian programming services, including private television and radio stations, networks and specialty, pay and pay-per-view television services – is pleased to provide these comments to the Standing Committee on Canadian Heritage with respect to its investigation into the role of CBC/Radio-Canada.
2. The CAB acknowledges and fully supports CBC/Radio-Canada as a key component of the Canadian broadcasting system. It is critically important, however, for the government to ensure that the role of the CBC/Radio-Canada as a public broadcaster is clearly understood and carried out in a way that complements the role and activities of the private broadcasting sector.
3. Both the public and private elements of the Canadian broadcasting system have a responsibility to contribute to the achievement of the cultural goals set out in the *Broadcasting Act*, and both make significant contributions in furtherance of these objectives.
4. A brief review of key audience and program expenditure data demonstrates that the private broadcasting sector is in fact the single largest contributor. According to data published by the CRTC, Statistics Canada and BBM:
 - privately owned radio stations account for 56% of total spending on radio programming;
 - privately owned radio stations obtain approximately 88% of all radio listening (private/public/U.S.) amongst the 12+ audience;
 - private television broadcasters (conventional TV, specialty and pay services) account for approximately two-thirds of total spending on Canadian programming; and
 - private television broadcasters obtain about two-thirds of 2+ total viewing hours to all television services (Canadian and non-Canadian) available in Canada.
5. The CAB is proud of the central role played by the private broadcasting sector in achieving Canada’s cultural policy objectives. As a first principle, therefore, the CAB submits that any review of broadcasting policy, including this investigation into the role of the public broadcaster, should also be mindful of the importance of maintaining and fostering a strong private broadcasting sector.
6. Within that broad context, the CAB offers the following comments focusing on the mandate and role of CBC/Radio-Canada.

The mandate and role of CBC/Radio-Canada

7. The CAB believes that the legislative mandate of CBC/Radio-Canada, as set out in section 3(1)(m) of the *Broadcasting Act*, remains appropriate. It is consistent with key principles that the CAB has consistently supported – that CBC/Radio-Canada should be focused on the provision of distinctive Canadian programming that is unique and clearly distinguishable from programming provided by the private sector, that is national in scope and relevant to the

different regions of Canada, and that would not otherwise be available within the Canadian broadcasting system.

8. In the CAB's view the real issue is not the mandate of the CBC/Radio-Canada *per se*, but rather the way in which CBC-Radio-Canada interprets and implements that mandate.
9. CBC/Radio-Canada is a public broadcaster that in 2006 received a Parliamentary appropriation of just over \$1 billion¹. This direct public subsidy, which is unavailable to the private sector, conveys a special obligation to CBC/Radio-Canada as a public broadcaster. More to the point, CBC/Radio-Canada should be expected to use this public subsidy to provide programming that complements the programming provided by the private sector, that is of relevance and appeal to Canadian viewers, and that enhances diversity within the broadcasting system. Moreover, CBC/Radio-Canada should be fully accountable for the way in which it conducts its activities in furtherance of its public service mandate.

Some of CBC/Radio-Canada's activities further its public service mandate

10. In certain specific activities, CBC-Radio Canada has been successful in implementing its public service mandate in a way that complements the private sector.
11. CBC/Radio-Canada's radio networks, for example, provide a distinctive non-commercial service that complements the local service provided by private radio broadcasters. In the CAB's view, this model is appropriate and is a good example of where the CBC/Radio-Canada is successful in implementing its public service mandate.
12. Partnerships with private sector broadcasters are consistent with the CBC/Radio-Canada's mandate as a source of distinctive high-quality programming that complements, not competes with, the programming provided by private broadcasters
13. Some examples of current partnership arrangements illustrate this point:
 - Affiliation arrangements with local stations in smaller markets support the provision of local programming by the privately owned affiliate, while ensuring that the national service of the CBC/Radio-Canada is made available in that market.
 - The launch of six audio channels, two English, three French and one international service, on Sirius Canada, a partnership of Sirius Satellite Radio, Standard Radio and CBC/Radio-Canada, allows the public broadcaster to have a presence on a new platform and provide a valuable service to subscribers, without competing directly with private sector broadcasters.
14. In today's competitive environment, these and other such partnerships are important mechanisms that can create efficiencies and foster the provision of high quality Canadian content that adds to overall diversity of programming available within the system. As such, these types of partnerships should be encouraged.

¹ Approved annual funding of \$946 million, plus additional non-recurring funding for programming initiatives of \$60 million.

The television networks of CBC/Radio-Canada present special problems

15. The situation with respect to the CBC/Radio-Canada's television networks is considerably more problematic. The CAB believes that there are several issues that warrant further attention, to ensure that CBC/Radio-Canada is able to fulfill its public service mandate in a clear, open and transparent manner. These are: (i) accountability; (ii) undue reliance on advertising revenues; and (iii) provision of regional and local service.

Accountability

16. As the recipient of over \$1 billion in public subsidy, the CBC/Radio-Canada should be fully accountable for how it uses that subsidy to achieve its public service mandate. Unfortunately, since the mandate is broadly crafted, it is open to widely varying interpretations by CBC/Radio-Canada that are designed to address whatever priorities or business strategies that may arise at any given point in time. As a result, there is no objective, quantifiable measure that would allow an independent assessment of the extent to which the CBC/Radio-Canada fulfills its mandate, given that it is the CBC/Radio-Canada itself that in practice defines its mandate and how it should be achieved.
17. The fact that there is no effective public accountability as to how CBC/Radio-Canada uses its Parliamentary appropriation leads, for example, to a potential distortion of the competitive marketplace for the acquisition of the rights to popular programming.
18. It is instructive to examine how public broadcasters in other countries are held accountable for the way in which they carry out their public service role. In the U.K., for example, the BBC's operations are defined, carried out and measured under a four-tiered approach.
19. First, the BBC is incorporated under the provisions of a Royal Charter, the most recent of which went into effect at the beginning of this year and covers the next ten years. The Royal Charter sets out the broad "Public Purposes", the corporate structure of the BBC, and general operational requirements including the provision of annual reports and statements of account.
20. Second, the Royal Charter is complemented by a detailed Framework Agreement that imposes more specific operational requirements on BBC management, consistent with the general provisions of the Charter. The Framework agreement provides detailed guidance to all of the BBC's operations, not only its core services that are funded entirely by "licence fee payers", but also its commercial activities that are intended to exploit its domestic content in international markets in order to generate incremental revenues that can further support the achievement of its public purposes.
21. Third, because the BBC is engaged in commercial activities, it has adopted a Fair Trading Commitment and accompanying Fair Trading Guidelines to ensure that any commercial activity it undertakes supplements and supports its public purposes. This is described in the BBC's Fair Trading Commitment in the following terms:

As a publicly funded organisation the BBC must ensure that no legitimate concerns could arise from its participation in the commercial world. Governments and regulatory bodies at home and abroad maintain close interest in the commercial activities of publicly funded broadcasters. Their main concerns are that public broadcasters may use public funds to subsidise their commercial ventures and distort competition in commercial markets.

*To address these issues, the BBC has established an important new set of guidelines to ensure that our commercial activities are consistent with our overall programming purpose, conducted in a transparent manner and do not involve cross-subsidies from public funds. This is our **Fair Trading Commitment**. It is a commitment to the action necessary to demonstrate that we will not divert any public funds to commercial ventures, or use our access to public funds to compete unfairly against other commercial companies.*

22. Fourth, the BBC produces an *Annual Report and Account* that provides detailed information, both qualitative and quantitative, on all of its public purpose and commercial activities. This includes the reporting of extensive programming, audience and financial information for each of its individual services, which in turn permits assessments that are objective, rigorous and transparent.
23. While the specific circumstances pertaining to CBC/Radio-Canada differ from those pertaining to the BBC, the CAB believes that a similar overall approach should be considered for the public broadcaster in Canada. There must be a high degree of transparency and accountability to ensure that CBC/Radio-Canada uses its government subsidy in an effective manner to further its public service mandate, but does not use those funds to compete unfairly against private sector broadcasters. The CAB notes that this is consistent with the recommendation of the Auditor General of Canada, following a 2005 examination of CBC/Radio-Canada, that measures should be adopted to improve accountability and reporting.
24. As a first step, therefore, the CAB submits that CBC/Radio-Canada should be required to place on the public file detailed financial information relating to its services, rather than just the broadly aggregated information that it currently publishes. This would provide an essential tool to enable interested parties to assess the extent to which public funds are being spent wisely on programming that furthers the mandate of the CBC/Radio-Canada, rather than being driven by purely commercial considerations.
25. The CAB suggests that an appropriate model for the public reporting of financial information related to CBC/Radio-Canada's owned and operated television networks, individual radio and specialty services and its digital media platforms is the model the CRTC currently uses for Canadian specialty services, including CBC/Radio-Canada specialty services NewsWorld and RDI, that have a monthly subscriber fee set by the CRTC or that are carried as part of the basic service package of cable and DTH systems. The CRTC requires that the complete Annual Returns and financial statements of such services, including a detailed breakdown of revenues and programming expenditures, be placed on the public file, noting that many parties, including individual subscribers and consumer groups, have a legitimate interest in having access to information regarding the revenues and programming expenditures of such services, and the sufficiency of those expenditures².

² Broadcasting Public Notice CTC 2006-19, 16 February 2006, *Confidentiality of the annual returns of pay and specialty programming services*

26. The CAB submits that a similar approach is warranted for the public broadcaster, given its mandate to provide basic broadcasting services funded by taxpayer dollars and given the fact that it is a model already used for its specialty services.
27. A related accountability issue is the privileged access of CBC/Radio-Canada to 37% of the Canadian Television Fund (CTF). In addition to its direct subsidy of approximately \$1 billion, this represents a further indirect subsidy of approximately \$100 million representing guaranteed access to Canadian programming from independent producers.
28. Furthermore, while private sector beneficiaries of the CTF are subject to specific performance measures to justify their level of participation, the CBC/Radio-Canada has no such measures and is therefore not accountable to any degree for that \$100 million subsidy. If CBC/Radio-Canada is given access to CTF-funded programs, the CAB submits that there is no reason why such programming, like all other CTF-supported programming, should not be subject to appropriate measures of success to ensure that public dollars are invested wisely in programming initiatives.
29. The CAB notes that the CRTC has established a Task Force to review the CTF and in that context the CAB believes that a review of the terms of participation of CBC/Radio-Canada in the CTF is appropriate.

Undue reliance on advertising revenues

30. The English and French television networks rely to a significant degree on advertising revenues to supplement the direct public subsidy. According to data published in the CBC/Radio-Canada's *Annual Report 2005-2006* and in the CRTC's *Broadcasting Policy Monitoring Report 2006*, CBC's English language television network has operating costs of approximately \$600 million annually and relies on advertising revenues of about \$200 million to support those operations. Radio-Canada's French language network costs about \$400 million, of which about \$100 million is recovered through advertising revenues. Overall, advertising accounts for about 30% of the revenues needed to finance the operations of both television networks.
31. This heavy reliance on advertising revenues causes the CBC/Radio-Canada to act in ways that conflict with its public service mandate. It puts the public broadcaster in direct competition with the private sector because programming decisions are driven by the need to maximize viewing audiences in order to generate advertising revenues, rather than by a clear objective in support of its public service mandate.
32. For example, CBC/Radio-Canada competes directly with private sector broadcasters for the right to broadcast popular programming, driving up the costs of acquiring such programming for all parties. In 2003, CBC/Radio-Canada received approval from the CRTC to broadcast Hollywood blockbuster movies in prime time, again driven by a desire to generate incremental advertising revenues. Yet the broadcast of such programming does nothing to further the goal of providing distinctive programming that adds diversity to the system. The CAB isn't suggesting that CBC/Radio-Canada shouldn't offer attractive programming that is of general appeal to national and regional audiences as part of its mandate. The CAB believes, however, that CBC/Radio-Canada should refrain from offering programming that merely replicates what is otherwise being offered by privately owned television broadcasters.

33. This impact is even more pronounced in French language markets, given Radio-Canada's very strong competitive position with francophone viewers. This is an issue not only for the acquisition of French language Canadian programming, but also with respect to popular U.S. programming dubbed into French. CBC/Radio-Canada is willing and able to bid more than the private sector to acquire the rights to such programming, raising questions about whether such activities are consistent with its public service mandate.
34. The CAB submits that unchecked and unconstrained access by CBC/Radio-Canada to advertising revenues distorts the proper balance between the public and private elements of the Canadian broadcasting system. It introduces unhealthy competition for the acquisition of popular programming, without reference to the mandate of the public television broadcaster, while distorting the overall advertising market to the detriment of the television sector in general.
35. Because of the importance of this issue, the CAB believes that the continued reliance of CBC/Radio-Canada's conventional television services on advertising revenues is worthy of further examination by the government. In particular, the government should assess the impact of CBC/Radio-Canada's commercial activity on its ability to properly fulfill its public service mandate, as well as on the long-term health of the private television sector. The CAB submits that the ultimate goal should be to find ways to reduce the reliance of CBC/Radio-Canada on advertising revenues in the future.

Provision of regional and local service

36. The *Broadcasting Act* requires CBC/Radio-Canada to reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions. In the CAB's view, it is important for CBC/Radio-Canada to draw more of its programming on its owned and operated stations from the regions, as part of its national services, to meet this goal. This also helps CBC/Radio-Canada to "contribute to a shared national consciousness and identity."
37. With respect to the provision of local service, we have previously noted the successes of CBC/Radio-Canada radio services in providing a relevant, distinctive non-commercial service that complements that local service provided by private radio broadcasters.
38. With respect to local service on CBC/Radio-Canada's television services, the CAB notes that over the last decade CBC/Radio-Canada has struggled with the level of local programming offered in markets across Canada. However, due to the presence of local private television broadcasters in most, if not all, of these markets, this reduction has not had a significant impact on Canadians' access to local news and information programming.
39. Accordingly, the CAB submits that programming of purely local interest, namely local news and information, should be left to the private television broadcasters operating in local markets, given their close long-standing ties to the community. This would allow CBC/Radio-Canada to focus on its role as a national broadcaster, including strong regional input that reflects all parts of Canada.
40. Although the CAB believes that local news and information should be left to the private television broadcasters operating in local markets, we want to stress that this includes those

private broadcasters who are affiliated to the CBC/Radio-Canada networks. Accordingly, CBC/Radio-Canada's current partnerships with private affiliates should be such that it ensures the continued provision of local programming by these stations along with their network offering.

41. Furthermore, if CBC/Radio-Canada were to withdraw from programming of a purely local nature, it would logically follow that CBC/Radio-Canada should not be soliciting or accepting local advertising which, in any event, accounts for only a small portion of CBC/Radio-Canada's total advertising revenues. Subject to the review of its commercial practices discussed above, this would limit CBC/Radio-Canada's commercial activity to national advertising only.

Digital media platforms

42. This submission has focused on the core radio and television services provided by CBC/Radio-Canada, as these are the services almost universally available to all residents of Canada.
43. Of course, over the years and increasingly so in recent years, CBC/Radio-Canada has exploited a number of other broadcasting platforms, starting with specialty services and pay audio, and now moving on to newer digital platforms such as satellite radio and several Internet sites.
44. Given the reality of limited government resources, CBC/Radio-Canada must ensure that its presence on these platforms does not come at the expense of its core broadcasting services, which are the primary vehicles for the achievement of its mandate.
45. An additional concern relates to CBC/Radio-Canada's business practices with respect to digital media platforms, the resulting impact of such practices on the private sector, and the level of disclosure of information that CBC/Radio-Canada should be expected to undertake relative to its digital media operations.
46. As an example, the licensing of news content is an important revenue source for private broadcast sector websites. Recently, CBC/Radio-Canada has adopted the practice of giving its news content away for free to other websites³. The CAB understands that, in addition to providing this content free of charge, CBC/Radio-Canada also allows some of its partners, including Yahoo.ca and Sympatico.MSN.ca, to sell advertising against the content and to keep all of the revenue generated by that advertising. This seriously undermines the private sector's ability to license its content to other websites. At best, it artificially drives down the market value for content and makes it difficult for the private sector to gain a fair return on investment in new media.
47. Private web publishers are also at a disadvantage vis-à-vis CBC/Radio-Canada with respect to competing for direct Internet advertising dollars. In June 2005, CBC/Radio-Canada reversed an earlier decision to reduce advertising on its websites and announced that it would expand advertising from 15% of total content to as much as 80% over two years. This action constitutes a real threat to the viability of private sector Internet operations at a time when new media operations are facing serious financial challenges.

³ From the CBC Annual Report 2002-2003, page 39, CBC/Radio-Canada provides news, arts and sports content to more than 30 partners, including Yahoo.ca, AOL Canada and Sympatico-MSN, through its "New Media Partnering Program".

48. CBC/Radio-Canada also enjoys the benefit of financial support from the Government of Canada to invest in its New Media operations. In 2001, this amounted to \$17.1 million⁴. In 2002, CBC/Radio-Canada increased its New Media funding by \$3 million out of the extra \$60 million allocation from the Federal Government⁵. In 2003, CBC/Radio-Canada allocated an additional \$1.5 million to New Media out of that year's supplementary allocation of \$60 million⁶. These increases would bring its annual New Media budget to something in excess of \$22.5 million, more than twice the operating budgets of its specialty channels Country Canada and Galaxie combined.
49. For reasons unknown, CBC/Radio-Canada has not published or revealed its New Media budget in its Annual Report or any other document since 2003. However, in a Globe and Mail article on June 19, 2006, Sue Gardner, the Senior Director of CBC.ca was quoted as saying that "We have 160 people working on the website."
50. The CAB believes the CBC/Radio-Canada should make public its expenditures in New Media and other digital platforms, as part of the enhanced financial reporting requirements discussed earlier in this submission.

Conclusion

51. The CRTC intends to conduct public hearings in 2008 to consider the licence renewal applications of CBC/Radio-Canada's various licensed broadcasting services. In advance of those hearings, it is appropriate for the government to give careful consideration to how the public broadcaster can best implement its public service mandate, so that it remains relevant in the future and is able to provide a distinctive service that complements the role of the private broadcasting sector.
52. The CAB believes that the Standing Committee's current examination is a valuable first step in this exercise. By soliciting the views of the public and other interested parties, the Standing Committee will be in a position to identify those particular issues that require further study and/or clarification, providing a strong foundation for a more comprehensive study.
53. In this submission, the CAB has provided a brief overview of some of the key concerns of private broadcasters vis-à-vis the way in which CBC/Radio-Canada interprets and implements its mandate. In light of these concerns, the CAB makes the following recommendations:
 - CBC/Radio-Canada should be required to publicly report detailed financial information relating to its owned and operated television networks, individual radio and specialty services and digital media platforms, rather than just the broadly aggregated information that it currently places on the public file. The level of detail required should be at least equal to that required of Canadian specialty services that have a regulated subscriber fee or are carried on the basic service of cable and DTH systems.
 - The government should give further consideration to the reliance of CBC/Radio-Canada's conventional television services on advertising revenues. In particular, the government

⁴ CBC Annual Report 2000-2001, page 8.

⁵ CBC Annual Report 2001-2002, page 50.

⁶ CBC Annual Report 2002-2003, page 88.

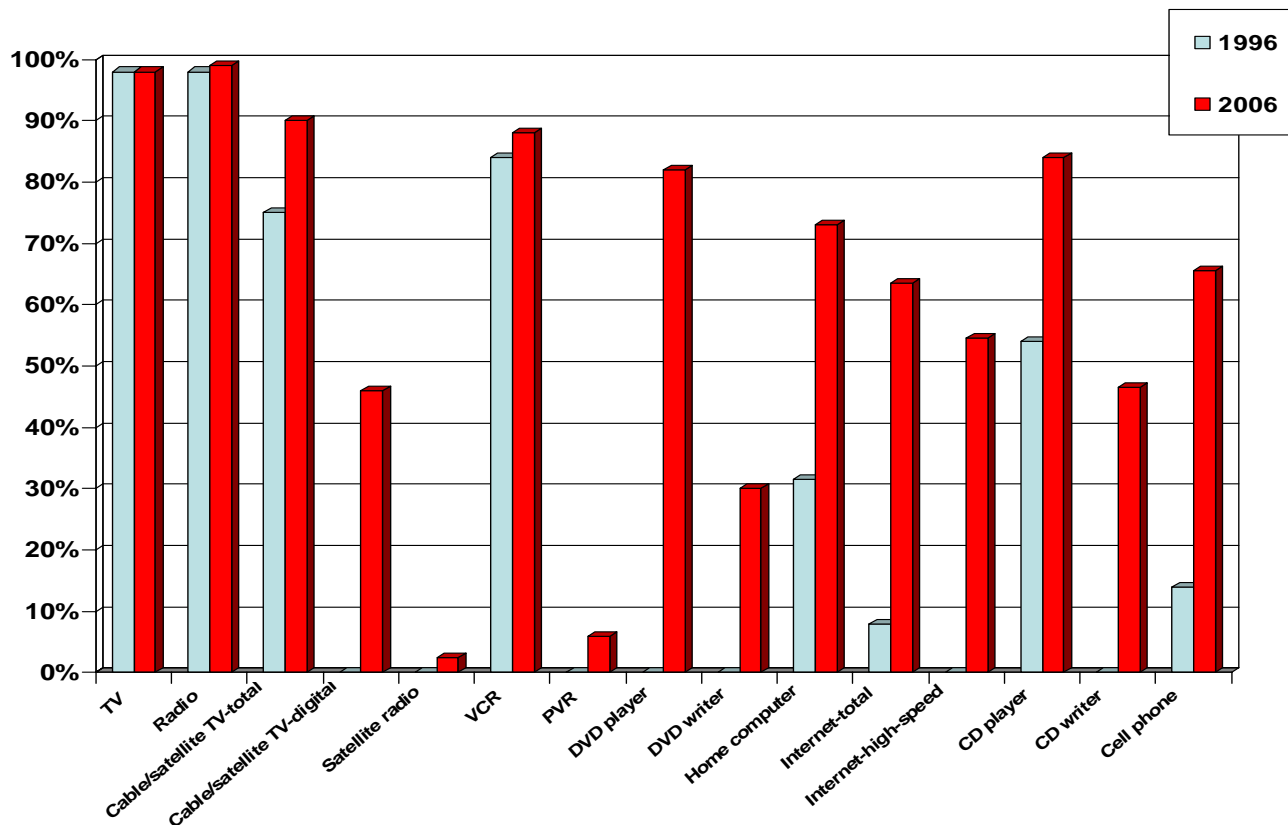
should assess the impact of CBC/Radio-Canada's commercial activity on its ability to properly fulfill its public service mandate. The CAB submits that the ultimate goal should be to find ways to reduce the reliance of CBC/Radio-Canada on advertising revenues in the future.

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- In moving into new digital platforms such as the Internet, CBC/Radio-Canada must ensure that its focus and resources remain on its core broadcasting services as the primary vehicles for the achievement of its mandate. In addition, CBC/Radio-Canada should make public its expenditures in New Media and other digital platforms.

54. The CAB appreciates the opportunity to provide these comments to the Standing Committee.

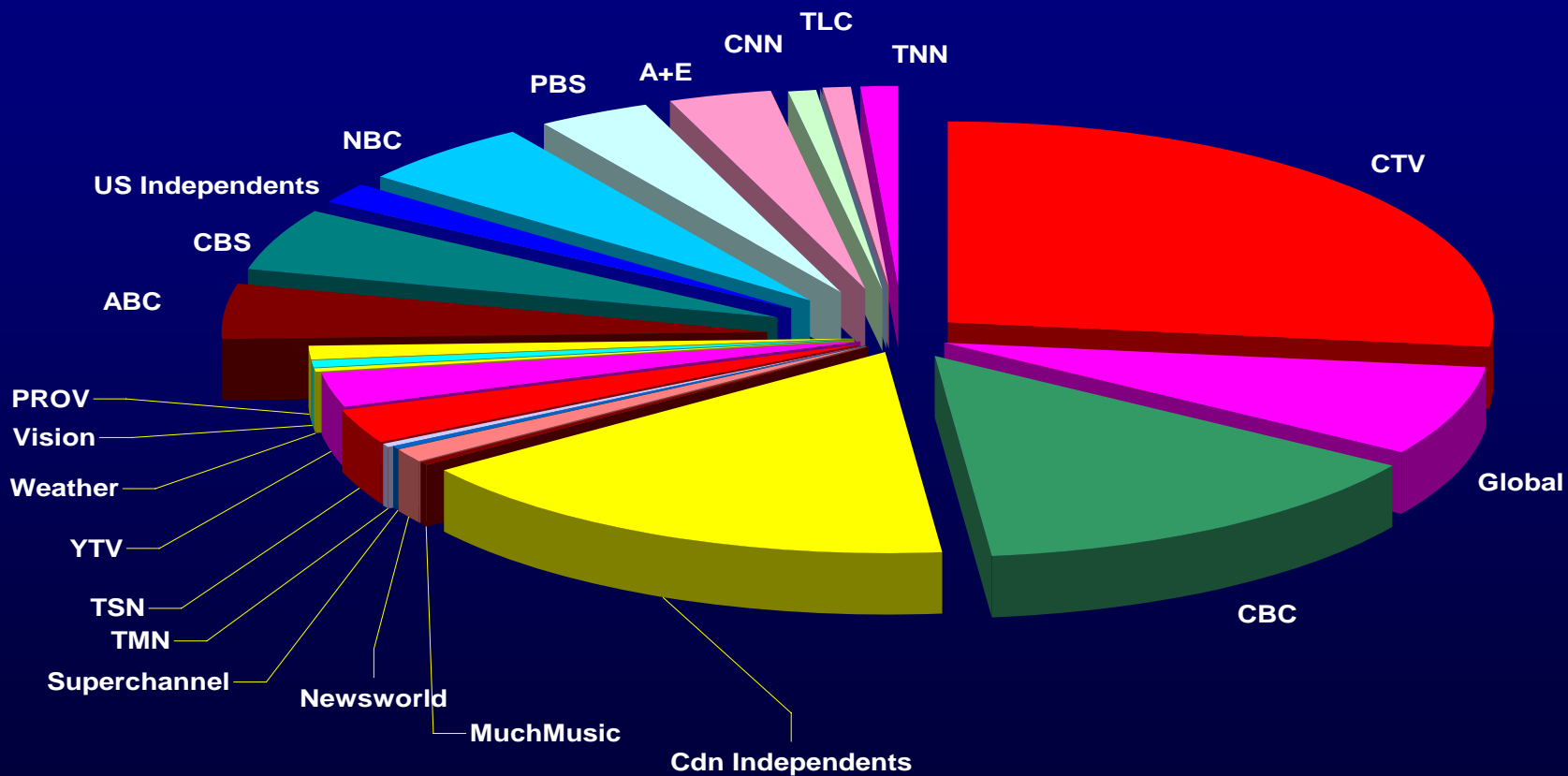
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Canadian choice of media

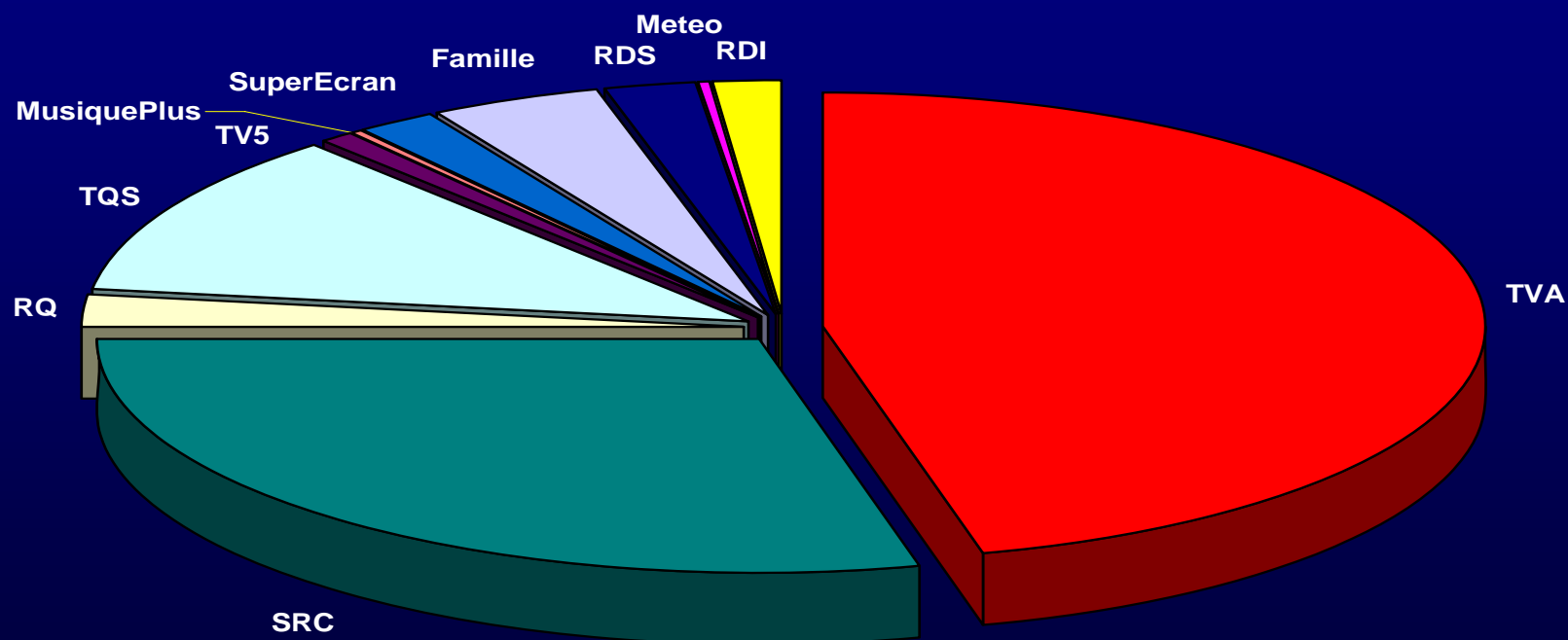


Source: Statistics Canada: Communications Management Inc.: Industry sources
(Figure ES-1, located on page 2 of Technology and broadcasting: Implications for public policy, Communications Management Inc., September, 2006, prepared for Can-West MediaWorks Inc. and CHUM Limited. This chart also reflects revised 1996 percentage of the households with cable/satellite from roughly 60% to 74%: figure 7 (revised) 17 November 2006.)

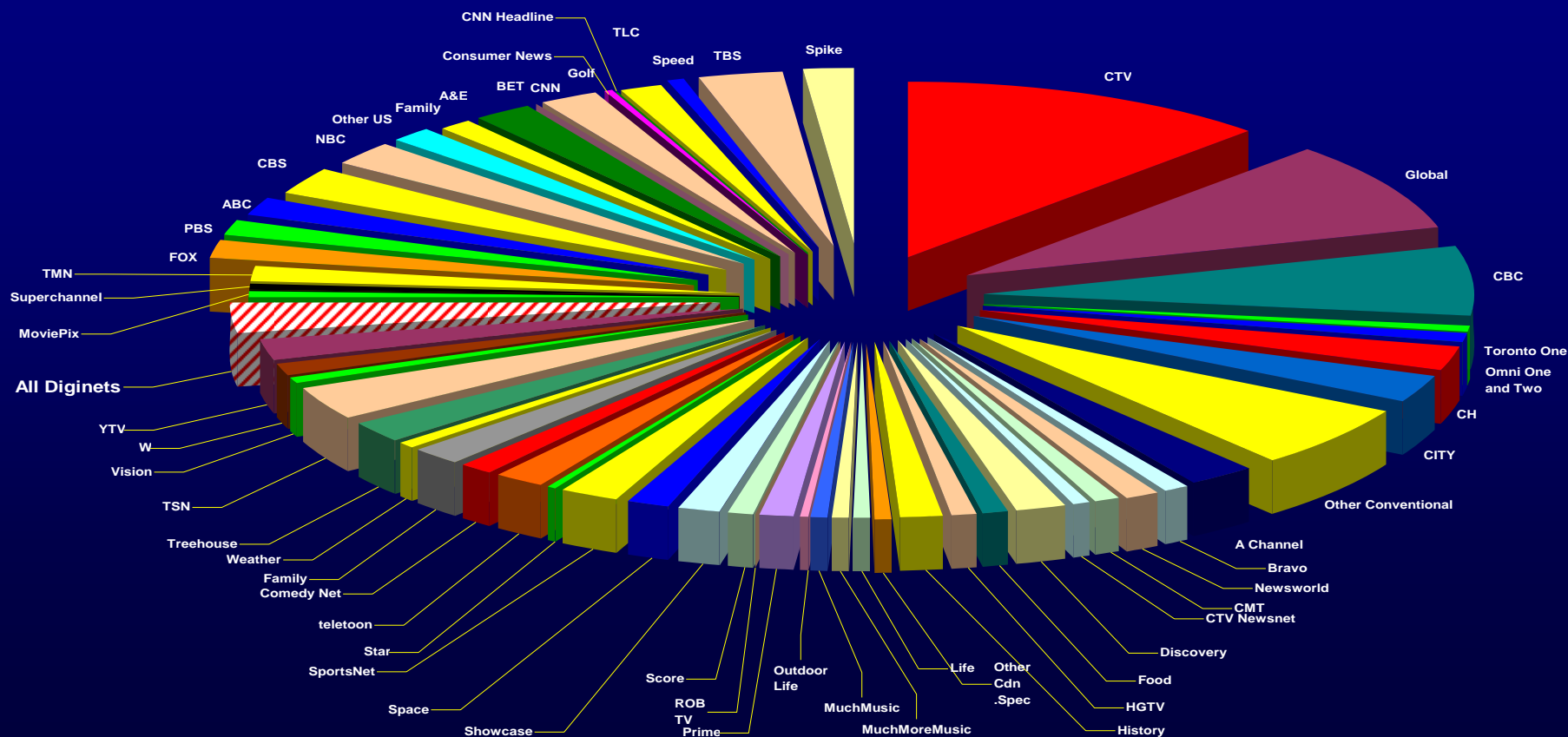
Viewing to English Services 1996



Viewing to French Services 1996



Viewing to English Services 2005-6



Viewing to French Services 2005-6

