

February 9, 2011

Canadian Radio-television and
Telecommunications Commission
Ottawa, ON
K1A 0N2

Attention: Secretary General

**Re: Broadcasting Notice of Consultation CRTC 2010-952
Broadcast Group Licence Renewal Hearings**

This submission is being filed on behalf of the Canadian Media Production Association-BC Producers' Branch (**CMPA-BC**) and British Columbia Film (**BC Film**).

The Commission's approach to the broadcast group licensing proceeding covers a number of areas where, as organizations involved in supporting independent production in BC, we have concerns. In this submission, we intend to focus on key areas as identified in the Commission's Broadcasting Notice of Consultation **CRTC 2010-952**.

However, our primary objective is to ensure a level playing field for producers across the country to find a place to tell their stories on the broadcasting assets owned and controlled by these large broadcast ownership groups.

We **do not** wish to appear at the hearing.

1. Background:

British Columbia Film is an independent, not-for-profit society established by the provincial government in 1987. It has the mandate to expand and diversify the film, television and digital media sector in British Columbia. Its core responsibilities are to:

- support the development and marketing of high quality, commercially viable British Columbia film, television and digital media projects;
- sustain and grow a competitive BC owned and controlled film and television industry;
- enable British Columbia production companies to foster existing, and to establish new, relationships with national and international co-financing partners;
- enhance the ability of British Columbia production companies to secure development and production financing;
- effectively administer provincial tax credit programs to ensure that BC remains competitive as a production centre and continues to attract private sector investment; and
- assist in the development of the creative talent necessary to sustain industry growth.

Canadian Media Production Association (CMPA-BC) is a provincial chapter of a national trade association representing over 85 member companies across British Columbia engaged in the production and distribution of television programs, feature films, and interactive media content. We are significant employers of BC creative talent and we assume the financial and creative risk of developing our stories and original content for Canadian and international audiences. Our members create content for distribution on traditional film and television, internet and mobile wireless platforms.

2. Key Issues:

The following are the key areas on which we intend to comment, as identified in the Commission's Broadcasting Notice of Consultation **CRTC 2010-952**:

- Canadian Programming Expenditures (CPE),
- Programs of National Interest (PNI),
- independent production, and
- regional production

3. Canadian Programming Expenditures, Programs of National Interest and Independent Production:

The Commission undertook a major policy review of issues relating to a group licensing approach for large broadcasting companies in 2009 and articulated its policy framework in Broadcasting Regulatory Policy CRTC 2010-167.

We support the Commission's approach as outlined in this policy statement and believe that the CRTC's position is appropriate, despite various proposals from the broadcast group applicants for variances from the policy as it relates to CPE, PNI and independent production.

Overall, we support the submission filed by the **Canadian Media Production Association's** national organization, and are of the opinion that the Commission should require all group applicants to adhere to a 30% CPE requirement, a 5% PNI requirement, and a commitment to allocating 75% of PNI spending to independent production.

These elements are critical to ensuring that large broadcast ownership groups contribute commensurately to Canadian programming, particularly in the areas of drama and documentary programming, and are committed to working with independent producers.

4. Regional Production:

We would like to focus on the commitments made by the various group applicants under the category of regional production.

In section B of the application forms for these group licence renewals, the Commission asked each group applicant to comment on the following:

Question 8. Regional production

Regulatory Policy 2010-167 states that the Commission, "...expects the major television groups to commission programs of national interest from all regions of Canada, engaging in levels of production activity that are commensurate with their presence in their respective markets."

*In light of this statement, **describe your group's plans to support regional production**, including specific information as to the extent to which programming is drawn from the various regions of Canada, and the existence and nature of any local and/or regional development offices.*

Below are **excerpts** from the applicants' responses to this question.

a) CTV (Application 2010-1261-6):

Part of CTV's commitment to invest in independent productions is our interest in working with producers throughout Canada's regions. CTV has benefitted from this approach and has licensed some of Canada's most successful television programs ever created for example, the regional independent production *Corner Gas*, which ran on CTV for six seasons. CTV is always interested in the best story ideas, regardless of where they are from, including stories based in Canada's regions or told by regional producers.

While CTV's national programming office entertains story ideas from producers across the country, our production executives also participate in industry forums, such as the Banff World Television Festival, to meet with independent producers throughout the country face-to-face who gather at the event. CTV also has a development office based in Vancouver, British Columbia to serve producers based closer to the west coast.

(a brief listing of regional productions over the past licence term)

CTV will continue to support independent productions from across the country regardless of where they are based and will ensure that the best stories from independent producers continue to be told.

b) Shaw (Application 2010-1307-8):

Canwest stations and specialty services have had a long history of working with and supporting independent producers across all regions. We continue to believe that regional reflection is an essential component of our overall programming strategy to ensure that Canadian audiences are exposed to different viewpoints.

Our commissioning of regional production over the license term is reflected in our annual Independent Production Activity Report.... (...a brief list of regional productions from the past licence term)

We intend to continue to source programming from a variety of regions across Canada as appropriate during the upcoming licence term.

c) Rogers (Application 2010-1253-3):

We are proud of our work with regional productions, and believe we have a strong record of supporting Canadian programs from across the country. With Citytv operating in five markets, we recognize the importance of reflecting local audiences.

Many program projects on Citytv try to connect more directly with audiences by featuring local places and personalities from our local markets. Specialty services like OLN, G4 and The Biography Channel are available across Canada. Accordingly, by their very nature, our Canadian programming slates contain input and program development from a number of different regions.

(a brief listing of regional productions over the past licence term)

Rogers does not operate dedicated development offices in markets outside of Toronto. With significant electronic submission tools available, and with other regular in-person pitches, we have ample opportunity to discuss program development ideas and concepts with Canadian producers from different regions. Any submissions or discussions are easily followed up on, with good ideas breaking through quickly.

We intend to maintain our current positive relationship with regional independent producers over the next licence term with a view to developing innovative and engaging content that is in keeping with the programming strategies for each of our television services.

d) Corus (Application 2010-1350-8):

The Corus group of services includes only 3 small market independent television stations...Therefore, Corus as a conventional broadcaster was not subject to the Commission's requirement to offer four hours of priority programming each broadcast week...

With respect to Corus' Category A specialty and pay services we have commissioned programs from across Canada, including a number of programs produced in regions outside of the major production centres of Toronto, Montreal and Vancouver. The Original Programming teams at Corus ensure that we continue to commission the best programming from across the country.

In addition, Corus' Original Programming team are present and accessible to regional producers at industry conferences across Canada, such as the Banff World Television Festival ... Accordingly, the Original Programming team for each Corus discretionary service is available for meetings with regional producers at these conferences and also facilitates meetings with regional producers when we are advised they will be visiting Toronto.

(a brief listing of regional productions over the past licence term)

Corus will continue to work with producers outside of the major production centres across all of the Corus group of services during the next licence term, commissioning the best programs from across Canada.

5. Comments:

From the above statements, it appears that broadcasters believe they are doing sufficiently well generating and encouraging productions from across the country. They believe there is a level playing field when it comes to developing programming across Canada.

We agree that it is in everyone's best interests, for broadcasters, producers and Canadian audiences, to ensure that the best stories and projects are supported and broadcast across Canada. Unfortunately, the broadcast groups' commitments, while full of goodwill, are completely lacking in measurable commitments. With the CRTC listing regional production as an expectation for broadcasters and not a condition of licence, this lack of commitment is worrisome.

According to the applications filed by the broadcast groups, CTV is the only broadcaster to currently have a development office outside of Toronto, but there is no commitment to keeping that office operational during the next licence term. Shaw as a western-based company makes no commitment to hire development officers outside of Toronto and it is unfortunate the Commission did little to encourage this at its hearing into Shaw's purchase of CanWest. Corus' pay TV service, Movie Central, is only available in western Canada yet they no longer have development staff outside of Toronto.

Without specific and measurable objectives as **conditions of licence**, broadcasters have little incentive to go across the country and actively engage with producers outside Toronto.

There is limited data on file with the Commission to test the records of each broadcast group's performance over the last licence term. Only Shaw/CanWest and CTV were required to file annual Independent Production Activity Reports (IPARs), and CTV has yet to file for the year ended August 31, 2010. Rogers and Corus were not required to file these types of reports and there is nothing in the applications or requests for information from the Commission to address this lack of measurable data.

However, in reviewing the IPARs of Shaw/CanWest and CTV there are some critical facts to note. First of all, it is important to point out that spending overall on independent production, as reported by these two large ownership groups, dropped radically by 2009, to less than half of previous years.

On a percentage basis, over the four years from 2006/07 to 2009/10, CanWest's level of independent production in Ontario ranged from 34% to 73%, indicating an ebb and flow of production activity across the country in the earlier years but leading to increased activity in Ontario. (see attached Schedule A)

Comparatively, for the two years of 2006/07 to 2008/09, CTV licensed 75% of its independent production from Ontario in 2006/07 and 76% in 2007/08. In 2008/09 it appears that CTV aggregated their information for confidentiality purposes, which makes it impossible to determine CTV's level of spending outside of Ontario for that year. This does indicate that CTV's spending on independent production outside of Ontario was small enough to be identified with actual projects and so the percentage levels of productions coming from Ontario for 2008/09 is likely at similar if not higher levels. By allowing this type of aggregate reporting the CRTC undermined one of the key purposes of these reports – to assess how broadcasters are meeting their responsibility to provide programming from across the country.

CTV did not file for 2009/10 so there is no data to confirm if CTV continued to secure most of its independent production from Ontario. It should be noted that this shift occurred despite the maintenance of a CTV development office in Vancouver over this period.

At its last licence renewal hearing in 2001, CTV stated:

If you build in a structure that makes access for all producers' part of your daily work, then that is how it happens. We have an actual structure that gives equal access to producers from across the country. We have people in those offices who can be strong advocates for their region and their programming. So once you build that structure, things move through it. (Decision CRTC 2001-457)

In its decision renewing CTV's licence in 2001, the Commission noted:

During this proceeding, CTV stated that it places great emphasis on the role of its program development team, and that the regional offices in Vancouver and Halifax have real decision-making power to ensure that programming reflects and connects the regions. In the new licence term, CTV stated that each of these offices will have \$200,000 at its disposal each year, and six other regional stations will each control \$50,000 in annual development funds. These funds will be made available to independent producers in the local markets, representing a total of almost \$5 million in development funding for regional programming, over the seven-year licence term. (Decision CRTC 2001-457)

So what happened? Where did these funds go? We would like to see a report on the \$5 million expenditures in development for regional programming, given the actual results as filed by CTV.

This highlights another major concern regarding the actual monitoring undertaken by the CRTC in regards to these independent production reports. There is nothing on file to indicate that CTV was questioned by the CRTC regarding its missing 2009/10 IAPR, nor that its 2008/09 report would fail to meet regional reporting requirements if the CRTC granted CTV's request for confidentiality.

Most alarmingly, the wording from the 2001 hearing sounds remarkably similar to the words expressed in the recent group licence applications.

In 2001, the Commission was clear on its support for production from across the country and expected that CTV would follow through on its commitments.

The Commission considers that CTV, as a national broadcaster, has a critical role to play in ensuring that all regions of the country are reflected in its programming. In the production of its drama, variety and long-form documentary programs, CTV relies on Canadian independent producers. The production industry is more mature in some parts of the country than in others. It is important that CTV make a conscious effort to develop Canadian talent through the licensing and broadcasting of programming from all parts of Canada.

We strongly urge the Commission to look past the best intentions as expressed by the broadcasters and implement mechanisms to monitor and ensure broadcasters follow through on their words. CTV had a great track record in 2001 of encouraging production across the country as a result of its required benefits spending, and yet without **conditions of licence** relating to regional production, by 2009 CTV was doing the majority of its independent production in Toronto. Shaw/CanWest's reports indicate earlier levels of spending that were reasonable across the country. But times have changed.

Data from the Canada Media Fund indicates that total English-language broadcaster envelopes have increasingly been spent in Toronto. In the five years from 2005-06 to 2009/10, CMF-funded broadcaster envelope allocations have increased in Toronto, from 40% to 60% of total CMF funds. (see attached Schedule B).

6. Initiatives & Partnering with Provincial Organizations and Agencies:

The large broadcasting groups mention attendance at the Banff International Television Festival as part of their regional outreach. This symbolic gesture should not be regarded as sufficient. Even for Vancouver-based producers, attending the Banff TV Festival is more costly than flying to Toronto for meetings. What is effective is ensuring that commissioning executives regularly travel to key production centres outside of Toronto for meaningful meetings with local producers.

There are willing partners in provincial funds and agencies and provincial producer organizations, and **we commit** to working with broadcasters to develop appropriate and effective initiatives. A crucial component of this is to ensure that producers from across the country have access to, and the ability to meet with, key broadcast decision-makers on a regular basis. Such initiatives could include quarterly meetings with Broadcaster Decision-Makers in each region and/or delivery of Showrunner Training Program(s) with the aim of developing experienced writers /executive producers.

Additionally, it is important to point out that in previous CRTC licence renewal applications forms, each station was required to commit to script and concept development funding in the market they served. This is no longer a part of the group licence application form. Yet project development remains a key component of ensuring broadcasters are involved with their local production community in the markets that they serve and actively engaged in developing projects of local, regional and national interest.

The CRTC needs to re-implement **development spending** as part of these large broadcast ownership groups' commitments to independent production. Access to development funding has become increasingly important as producers across the country compete to develop the best projects. Spending development funding in a regionally balanced way is the foundation to ensuring a level playing field for all producers across the country.

7. Summary and Recommendations:

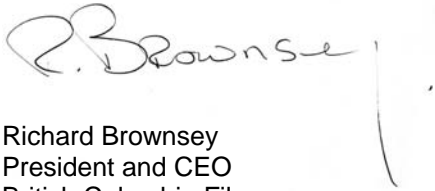
Although the broadcasting groups state that they seek out the best of projects from across the country, the CRTC needs to explore this issue at the group licence renewal hearings in April. The CRTC **must ensure that broadcasting groups commit to quantifiable initiatives**, including adequate access to development funding for producers outside of Toronto, as well as on-going producer outreach and involvement in skills development.

Similar to the Commission's recognition that Canadian Programming Expenditures, Programs of National Interest and Independent Production need to be conditions of licence, **these regional initiatives must also be conditions of licence** for the large broadcasters to take them seriously. The CRTC should require detailed and specific plans from each of the applicants encompassing quantifiable development and production initiatives to encourage programs from across the country. The large broadcasting groups should also be required to file detailed annual reports on how each group is meeting their commitments, and these reports need to be made public and strictly monitored by Commission staff.

We are not advocating for regional quotas. We believe that producers in British Columbia and the rest of the country outside of Toronto are capable of developing and delivering excellent programming. However, we are not convinced that the infrastructure is in place to achieve the Commission's previously stated objectives and ensure a level playing field.

We look forward to observing the hearing on April 4th, 2011. In particular, we look to the Commission to garner commitments from each of the large broadcast ownership groups regarding their responsibility **to develop Canadian talent through the licensing and broadcasting of programming from all parts of Canada.**

Respectively submitted,



Richard Brownsey
President and CEO
British Columbia Film



Liz Shorten
Managing Vice-President
Canadian Media Production
Association (CMPA) – BC Branch

cc: CTVglobemedia Inc.
Shaw Media Inc.
Rogers Broadcasting Limited
Corus Entertainment Inc.

Schedule A

Independent Production Activity Reports - CRTC filings

CanWest	2006-07			2007-08			2008-09			2009-10		
	# proj	Lic Fees	% of Total	# proj	Lic Fees	% of Total	# proj	Lic Fees	% of Total	# proj	Lic Fees	% of Total
BC	30	8,720,858	25%	29	14,520,877	40%	35	8,182,724	21%	5	3,739,619	35%
Prairies	14	6,034,762	17%	8	3,467,993	10%	2	990,000	3%	2	386,953	4%
Ontario	31	17,637,965	50%	24	12,306,328	34%	28	28,179,966	73%	23	6,222,832	58%
Quebec	7	1,521,626	4%	12	5,855,731	16%	1	1,380,000	4%	5	435,000	4%
Atlantic	5	1,136,698	3%	0	0	0%	0	0	0%	0	0	0%
Total	87	35,051,909	100%	73	36,150,929	100%	66	38,732,690	100%	35	10,784,404	100%

CTV	2006-07			2007-08			2008-09			2009-10		
	# proj	Lic Fees	% of Total	# proj	Lic Fees	% of Total	# proj	Lic Fees	% of Total	# proj	Lic Fees	% of Total
BC	5	4,165,615	10%	7	10,448,500	13%	3	*	*	* not on file *		
Prairies	6	5,653,903	13%	7	7,524,928	10%	2	*	*			
Ontario	17	32,952,910	75%	25	59,914,144	76%	19	26,094,654	100%			
Quebec	1	0	0%	9	871,000	1%	3	*	*			
Atlantic	1	0	0%	4	0	0%	1	*	*			
Total	30	43,832,428	100%	52	78,758,672	100%	28	26,094,654	100%			

Source: CRTC

Schedule B

Canada Media Fund - Funding by region

Areas	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010
North West Terr.	0.0%	0.0%	0.0%	0.0%	0.0%
Yukon	0.0%	0.3%	0.0%	0.0%	0.0%
BC	24.2%	22.4%	21.0%	6.9%	14.0%
BC	24.2%	22.7%	21.0%	6.9%	14.0%
Alberta	4.3%	4.7%	7.3%	12.2%	8.0%
Manitoba	4.4%	4.5%	2.1%	1.1%	3.0%
Saskatchewan	2.0%	3.7%	1.8%	1.4%	1.0%
Prairies total	10.7%	12.9%	11.2%	14.6%	12.0%
New Brunswick	0.0%	1.1%	0.2%	0.0%	0.0%
Newfoundland	2.7%	0.0%	0.1%	0.5%	4.0%
Nova Scotia	5.1%	5.5%	4.0%	3.6%	5.0%
PEI	0.0%	0.0%	0.3%	0.0%	0.0%
Atlantic total	7.9%	6.6%	4.7%	4.2%	9.0%
Ontario ex. Toronto	1.8%	0.9%	2.0%	0.6%	1.0%
Ontario- Toronto	40.5%	47.1%	53.3%	64.4%	60.0%
Nunavut	0.0%	0.0%	0.0%	0.0%	0.0%
Ontario total	42.4%	48.0%	55.2%	64.9%	61.0%
Quebec ex. Montreal	0.3%	0.1%	0.1%	0.0%	0.0%
Quebec - Montreal	14.5%	9.7%	7.9%	9.3%	5.0%
Quebec total	14.8%	9.8%	8.0%	9.3%	5.0%

Source: Canada Media Fund