



9 October 2007

Mr. Robert A. Morin  
Secretary General  
Canadian Radio-television and  
Telecommunications Commission  
Ottawa, Ontario K1A 0N2

On-line: <http://support.crtc.gc.ca>

Dear Mr. Morin,

**Broadcasting Diversity of Voices Hearings  
PN CRTC 2007-5 (Issues Raised at Hearing) and  
PN CRTC 2007-5-2 (Disclosure of Financial Information)**

1. This is the final submission of the Alliance of Canadian Cinema Television and Radio Artists (ACTRA) in the matter of Public Notice CRTC 2007-5 and CRTC 2007-5-2. This submission responds to the letter sent by the Commission to the broadcasting groups concerning the impact of disclosure of financial information for over-the-air radio and television broadcasters, and to questions posed to ACTRA during its oral presentation on 20 September 2007.
2. ACTRA appreciates the opportunity to participate in this important process reviewing the Commission's approach to how media consolidation and other issues affect the diversity of voices in the broadcasting system. We are pleased to have this chance to place our response to key issues on the public record.
3. ACTRA and its predecessor organizations have represented the interests of professional performers working in the English-language media in every region of Canada for more than 60 years. ACTRA bargains collectively on behalf of 21,000 performers. In addition, ACTRA represents the interests of thousands of singers and musicians through the work of the ACTRA Performers' Rights Society, Sound Recording Division, which collects and distributes royalties from the public performance of musical recordings.

**Disclosure of Financial Information**

4. ACTRA believes strongly that disclosure of financial information of over-the-air radio and television broadcasters is appropriate, will not harm their competitive position and is in the public interest. ACTRA urges the Commission to release the financial information in the Annual Report down to and including profit before interest and taxes (PBIT), for each over-the-air licence, for each year retroactively to 1998.

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5. The *Broadcasting Act* points out that “the Canadian broadcasting system ... makes use of radio frequencies that are public property.” In return for being authorized to use this public property, the *Act* provides: “private networks and programming undertakings should, to an extent consistent with the financial and other resources available to them ... (i) contribute significantly to the creation and presentation of Canadian programming ....” The specific extent to which private broadcasters must contribute to Canadian programming is established by various CRTC policies and specific Conditions of Licence.
6. In order to assess the performance of private broadcasters relative to these obligations, the Commission requires that each licensee provide detailed financial information on an annual basis. While it routinely releases much of the information filed by pay and specialty television services, since 1998 it has provided financial information about over-the-air radio and television broadcasters only on a nationally- or regionally-aggregated basis. In a letter to the major broadcasting groups, it has raised the possibility of changing this to provide that financial information would be provided for the over-the-air licences controlled by each large multi-station ownership group.
7. ACTRA concurs with the observation in the Commission’s 24 August 2007 letter: “(in 1998), the broadcast environment was characterized by a great variety of locally-based owners and the rationale for confidentiality was that disclosure might prejudice the undertaking’s ability to compete .... Since 2000 however, increased consolidation in the broadcasting industry has resulted in a relatively few number of large multi-station ownership groups, most of whom also control significant numbers of pay and specialty services.”
8. As the Communications, Energy and Paperworkers Union (CEP) outlined in its Diversity of Voices presentation before the Commission on 19 September 2007,

“The problem with reporting financials by ownership group is that the groups can shuffle their financial cards pretty much any way they like, meaning that Canadians still won’t have a good idea of what they are or are not doing, or how concentrated ownership affects us all. Broadcasters used to file station-by-station financials, they can do it again. Why should the public have this data? If owners argue that buying another station will benefit Canadians, the public needs the tools to test that argument with the data the owners are using, their expenses and their revenues. Without this kind of information we are left to operate in the dark. Surely this is the opposite of transparency and accountability.”
9. ACTRA believes it is in the public interest for detailed financial information to be released with respect to each licence and each ownership group, fully consistent with the *Broadcasting Act* and necessary for informed public input to decisions about the broadcasting system.
10. As the Commission is aware, ACTRA’s primary public policy focus at the moment is working to reverse the precipitous decline in the production of Canadian drama and other fiction programming, which has occurred since the 1999 CRTC Television Policy de-emphasized this genre of programming. While we do know that English-Canadian broadcasters spent almost twelve times more on foreign drama than on Canadian drama in 2006, we do not know how each licensee performed in this respect, and yet the *Act* places an obligation on each programming undertaking to make a “significant” contribution to Canadian programming based on its “financial and other resources.” We believe it is vital to release the information ACTRA and other public-interest participants require to assess properly how individual licensees have complied with this statutory obligation. This is particularly important as we prepare for the next round of licence renewal hearings for the commercial over-the-air television stations.
11. We reject the argument that releasing the information will negatively affect the competitive position of television broadcasters. In the current environment in which two large corporate

groups dominate the over-the-air television market in English Canada, we submit that each already knows the key information about their competitor. Since they routinely compete for rights to broadcast popular foreign television shows and movies, for advertising dollars, for on-air talent and for independently produced Canadian programs, they fully understand the financial position of their competitor. The Commission also has this information since it receives the Annual Reports. It is only the public interest parties in the CRTC processes which do not presently have access to the detailed information. Since public interest parties have an important role to play in CRTC processes, disclosure of financial information for each programming undertaking is essential.

### **Costs of Producing 10-Point Canadian Dramas**

12. When ACTRA appeared before the Commission on 20 September to discuss its written submission, the Chair asked our delegation to analyze what is the “cost” of producing 10-point drama, as compared to 8-point drama, and also asked why 10-point drama needs to be regulated if it is not “more expensive” than 8-point drama.
13. The most authoritative figures on Canadian production activity are contained in the annual report on the economics of Canadian production, produced by the CFTPA in collaboration with the Department of Canadian Heritage and others. According to *Profile 2007*, in 2005/06 the average per-hour budget of Canadian English-language fiction programming was \$1.305 million; the median budget was \$1.241 million. While these figures were greater than the previous two years, they have remained remarkably consistent over the decade. The highest average budget was \$1.521 million per hour in 1998/99 and the lowest was \$1.082 million in 2004/05; the highest median budget was \$1.345 million, also in 1998/99, and the lowest was \$1.107 million in 1997/98. ACTRA notes that these figures are lower by a factor of three or more than the costs of producing the current slate of popular American dramas, which generally cost \$3.0-5.0 million per hour.
14. How Canadian productions are financed has changed over this decade. (Note that these figures are for all productions and both languages, not just for English-language fiction programs.) In 2000/01, broadcaster licence fees accounted for 15% of the budgets; by 2005/06, broadcasters were contributing 22%, still modest and substantially lower than all of our major international competitors. Foreign sales declined from 20% to 10% in this period, and the contribution of Canadian distributors declined from 16% to 5%. Contributions from the “public” (federal and provincial tax credits, public broadcaster licence fees, CTF Equity Investment Program, Telefilm, etc.) increased from 33% to 47%. *Profile 2007* also reports that other “private” contributions increased from 9% to 15% between 2000/01 and 2005/06. ACTRA submits that some of these amounts (CTF Licence Fee Program and independent production funds) are quasi-public since they are funded by statutory obligations imposed by the Commission and are in exchange for the right to use public property for private profit. Thus, by 2003/04, the public was contributing on average more than half the cost of producing Canadian television shows.
15. In the past decade there has been a slow increase in the percentage of Canadian production activity (based on dollar volume) accounted for by 10-point productions. (Again, it is important to note this is for all productions and both languages.) In 1998/99, 10-point productions accounted for 56% of the total volume of activity, by 2001/02, this had increased to 69%, and by 2005/06 10-point productions had increased to 80% of the total production volume. There is no doubt that the CTF requirement has driven this increase.
16. The budget of each individual drama program depends on a variety of factors, including the number of cast members and background performers, crew, locations, length of shoot, special effects, stunts, complexity of the script, number of writers, sets, music, and myriad other factors. Theoretically, a 6- or 7-point production would be more expensive for the producer.

This is because non-Canadians would generally receive higher contractual fees, as well as travel expenses, as compared to Canadian performers, writers, directors and key technical personnel. With respect to performers, industry collective bargaining agreements require that U.S. members of the Screen Actors Guild engaged on a Canadian production must be paid under the terms of the U.S. agreement, and in U.S. dollars. Even on minimum terms, SAG members work at rates significantly higher than ACTRA members, and have a richer residual structure. Even with the recent rise in the value of the Canadian dollar, the U.S. contractual terms are more advantageous to the U.S. performer.

17. ACTRA acknowledges there is no evidence in *Profile 2007* to support the contention that 6- and 7-point dramas are more expensive to produce. However, there is also no evidence to support the position that 10-point dramas are more expensive to produce. There is simply no correlation between the number of Cancon points and the average or median production budgets over the past decade.
18. ACTRA notes that it has not heard independent producers and broadcasters make the claim that 10-point dramas are more expensive for them to produce. In supporting a proposal to provide “more flexibility” and to reduce the CTF requirement to 8-point, independent producers argue this would make it easier for them to obtain the financing for their productions, particularly from foreign sales, and broadcasters argue this would make it easier for them to market the programs and to obtain advertising revenues. ACTRA rejects both of these arguments and believes there is considerable evidence to demonstrate the contrary in the domestic and foreign success of a number of recent Canadian programs, including *Corner Gas*, *Slings and Arrows*, the *Degrassi* series and *Little Mosque on the Prairie*.
19. In further response to broadcasters, ACTRA submits that if a fully Canadian production is properly promoted and scheduled, it can achieve market success, including advertising sales. What it cannot do for the broadcaster is to replicate the return on investment they receive from broadcasting one of the popular American drama programs that dominate the prime-time schedules of Canadian commercial broadcasters. This is simple economics. These American productions are “dumped” into Canada (in trade parlance this means they are sold into our market at a lower price than in the U.S. domestic market). The broadcaster pays a licence fee that is not much greater than the fee they are paying for the Canadian drama. Yet, because of the simultaneous substitution rule, the higher production values for U.S. shows and the enormous North American publicity machine, the advertising time costs more and the broadcaster can sell to the advertiser all of the viewers of that particular program, whether they are tuned to the Canadian television channel or to the U.S. one. This is a structural reality in the Canadian system and one of the reasons we need strong regulations.
20. In further response to those independent producers who argue they need foreign stars to finance their productions, ACTRA notes first of all that there are many Canadian television stars, both here and in the United States. The CBC recently announced it was inviting Canadians to vote for their “favourite Canadian on a TV series” not eligible for a Gemini Award. While ACTRA does not support this crass approach, we do note that the CBC easily found 22 Canadian actors to put forward as potential recipients.
21. ACTRA also notes that independent producers are already free to mount a production with a foreign star, scriptwriter or director, and with foreign financing. As long as they meet the 6-point threshold they continue to enjoy the benefits of a higher tax credit and higher licence fees from broadcasters with regulatory obligations to schedule Canadian content. In 2005/06, 20% of the television productions in Canada were less than 10-point. But, what these producers lose is the right to receive certain amounts of public funding, including investment from CTF and Telefilm Canada. ACTRA submits this is fair and appropriate. As we noted at the public hearing, scarce public funds should not be used to permit producers to hire non-Canadians.

22. In her 2003 report, *Dramatic Choices*, on the desperate state of Canadian television drama, broadcast executive Trina McQueen pointed out for the CRTC that: “The expensive grammar of American television is the lingua franca for our viewers. Canadian producers must compete with talent, cunning and stories that are intensely relevant to their viewers. They do well. On a program budget cost per viewer, Canadian shows do as well or better than American shows. Unfortunately, this is no one’s measure of success.”
23. That’s why market forces alone are not enough to support the production, promotion and scheduling of high quality 10-point Canadian drama programs and series and why we need strong regulations on private broadcasters.

Thank you

A handwritten signature in black ink, appearing to read "Stephen A. Waddell", written over a light gray rectangular background.

Stephen A. Waddell,  
National Executive Director

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