



May 8, 2008

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 Notice of Public Hearing CRTC 2007-10-6, 2007-10-7
Final Written Submission
Review of the regulatory frameworks for broadcasting distribution undertakings and
discretionary programming services**

1. This is the final written submission of ACTRA (Alliance of Canadian Cinema Television and Radio Artists) in the matter of Public Notice CRTC 2007-10, the Review of the regulatory frameworks for broadcasting distribution undertakings and discretionary programming services.
2. 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.
3. ACTRA is a founding member and a financial contributor to the Coalition of Canadian Audio-visual Unions (CCAU) which has also filed a final written submission in this process. ACTRA contributed to this intervention, as well as to all previous CCAU reports on broadcasting policy and the crisis in television drama. ACTRA fully supports the positions put forward by the CCAU. Comments in the present intervention are supplementary to the positions put forward by the CCAU.

Evidence Canadian Audiences Want Canadian Drama

4. Numerous intervenors were asked during the hearing to demonstrate that Canadian audiences want more Canadian drama on television. ACTRA responded to this line of questioning as part of its oral remarks. To elaborate, the CRTC's own Broadcasting Policy Monitoring Reports consistently show the drama genre is the most popular with viewers, although Canadian

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drama is under-represented. Canadians choose to watch drama/comedy more than any other genre. In the CRTC's 2007 Monitoring Report, English-language drama/comedy viewing for 2005-2006 represented 154.5 million average weekly viewing hours, or 38% of all time that Canadians were viewing television. The next most popular genre is news/analysis and interpretation, at 89.9 million average weekly viewing hours or 22.2% of all viewing. Drama/comedy viewing, by hours, is 72% greater than news viewing.

5. However, English-Canadian drama/comedy made up only 20% of the drama viewing in 2005-2006, with 80% of the drama/comedy viewing being to non-Canadian programming. This skew to foreign programming is attributable primarily to availability and promotion of programming. As ACTRA has demonstrated repeatedly before the Commission, primetime schedules of the private broadcasters are dominated by U.S. shows. A Canadian cannot choose to watch more Canadian drama programming on the private conventional broadcasters in primetime, because there is almost no homegrown drama to choose from on those stations, at those times. Colour-coded primetime schedules for January 14-20, 2008, for four over-the-air conventional broadcasters including CBC are attached as Appendix A.
6. In the *Review of the Regulatory Framework for Broadcasting Services in Canada*, the study commissioned by the CRTC, authors Laurence Dunbar and Christian Leblanc state: "We do not disagree with the conclusion that market forces alone are unlikely to achieve the policy objectives set forth in the *Broadcasting Act*." They also note that: "The available information also strongly suggests that the existing regulatory incentives and obligations with respect to English-language Canadian drama are not effective." Their recommendation 6.1 is this:

We believe it is imperative to develop more targeted and effective measures to incent the exhibition of Canadian content during peak viewing periods where market forces will not achieve this goal. Consideration should be given to targeting peak programming obligations to a narrow class of programs, such as drama, which are not adequately supported by the marketplace, and imposing targeted exhibition obligations which require television services to broadcast a minimum number of hours of these types of Canadian programs between 7 and 11 pm during each six month period over the course of a licensee's broadcast year to ensure that they will be exhibited during months when Canadians are watching significant amounts of television.

7. ACTRA submits there is strong evidence that Canadian audiences desire more Canadian drama on television. However, the Commission is well aware that its mandate goes beyond audience preference in any case. The *Broadcasting Act* is structured around a broadcasting policy for Canada, and the 'demands of the public' are only one aspect.
8. ACTRA wishes to point out that measuring audience demand for Canadian drama is complicated by a number of factors. Drama has all but disappeared from the over-the-air conventional broadcaster primetime schedule; it's difficult to measure demand for something that is not there.
9. Canadian shows face additional scheduling and promotional hurdles, as ACTRA has often demonstrated before the Commission. These also have an impact on ratings. Simultaneous substitution rules tie the private conventional schedules to the schedules of the U.S. broadcasters, leaving few desirable timeslots left for indigenous productions. U.S. shows are heavily promoted in Canada by the private broadcasters and by the spillover effect from the Hollywood promotional machine. Canadian drama and comedy shows do not receive comparable marketing and promotional support. Anecdotal evidence has also been presented to the Commission of shows that have been bounced around a schedule, and then abruptly cancelled by the broadcaster, using the excuse of poor ratings.

10. ACTRA disputes the claims of those who argue that poor ratings demonstrate a low Canadian audience preference for Canadian drama. The success of a show like *Corner Gas*, which is well-produced, strongly-promoted, and appropriately scheduled, shows that Canadians will watch a Canadian show, even if its production budget is only a fraction of the size of a comparable American show.

Pollara Public Opinion Poll

11. During ACTRA's appearance at the hearings, we were questioned whether the Pollara public opinion poll we commissioned provided evidence that Canadian audiences want more Canadian drama. The Pollara poll was a joint effort with our partners the Friends of Canadian Broadcasting, the Communications Energy and Paperworkers Union, Stornoway Communications and the Writers Guild of Canada. It is attached as Appendix B.
12. The Pollara poll interviewed by telephone 1,200 Canadians who currently subscribe or have subscribed to cable or satellite TV in the past five years. The poll was conducted from March 14 to March 19, 2008, and is considered accurate, +/- 3%, 19 times out of 20.
13. The poll illustrates Canadian audience support for Canadian content. Question 14A, illustrated on page 32 of the poll, shows a solid majority of Canadians feel it is important to have Canadian-created content on TV, including drama and comedy, sports, documentary, public affairs and local news.
14. The poll also demonstrates opposition to replacing Canadian drama programming with foreign programming. Question 18A-E found that a solid majority of respondents, 57%, were against replacing Canadian drama and comedy programming with foreign programming that might be more profitable for a cable or satellite provider to acquire.
15. Other important results to note are the public's belief that the CRTC and the federal government are the most responsible for ensuring the viability of Canadian programming, as seen for question 16, on page 39. The largest results placed the CRTC as most responsible, at 36%, and the Canadian government, at 22%. Question 19, illustrated on page 41, shows that Canadians most trust the CRTC (42%) and the Canadian government (25%) to preserve Canadian culture and identity by promoting Canadian content on TV. Taken together, 67% of Canadians are looking to the government and the CRTC to preserve our Canadian identity on television.
16. This CRTC process, announced in July 2007 with original submissions due in October 2007, has received news coverage mostly in the business sections of newspapers. However, Canadians are largely unaware of the extensive review being undertaken by the CRTC. As shown on page 46, responding to question 23 of the poll, fully 83% of Canadians surveyed were not aware of the CRTC hearings considering reduced regulation of cable and satellite services.
17. Nearly nine in ten Canadians believe that regulations are needed to preserve independent Canadian programming on television. When asked, 53% of Canadians believe it is very important to have regulations and/or incentives that would ensure the continued presence of independently owned Canadian broadcasters on Canadian cable and satellite line-ups. The next highest result showed 35% of Canadians believed regulations to be somewhat important, for a combined result of 88%. Question 28 is illustrated on page 48.

18. Relaxing regulations in the broadcasting system is very likely to reduce the choice of Canadian programs on television. When asked, 41% of Canadians felt less regulation was very likely to reduce the choice of Canadian programs on television, and 33% felt it was somewhat likely. Together, 74% of Canadians believe less regulation by the CRTC will reduce the Canadian programming available. Question 26 is illustrated on page 51.
19. The poll shows that Canadians believe reduced regulation will lead cable and satellite companies to decide which channels to make available based on profitability, or channels they own, over popular channels or Canadian channels. Fully 54% believe cable and satellite companies will choose the most profitable channels. Question 24 is illustrated on page 53.

Quantifying Dollars Required For Drama

20. ACTRA supports the proposals of the CCAU for additional funding for drama and its estimates of the revenues these measures will generate:

Impose a spending requirement on over-the-air broadcasters of 7% of ad revenue, \$151 million, minus current spend on English-Canadian drama (\$40 million)	\$111 million
Elimination of use of CTF licence fee top up by broadcasters, \$30 million, with 60% going to Canadian drama	\$18 million
Increase VOD/PPV contributions from 5% to 10%, \$5 million, with approximately 80% spent on Canadian drama	\$4 million
Increase BDU contribution from 5% to 6%, \$55 million, with 60% of contributions to Canadian drama	\$33 million
Direct 50% of new revenue derived from local avails on U.S. specialty services to Canadian drama	\$30 million
Impose fee-for-carriage at \$0.25 per subscriber per month, for three major OTA broadcasters (9.7 million subscribers) directed to Canadian drama	\$174 million
Total incremental resources to be devoted to Canadian drama	\$370 million/year

Regulation Is Required

21. There is no question that homegrown drama is difficult to produce and promote, expensive, and not as profitable as imported drama or less expensive genres of programming. These factors are precisely why regulation is required if drama is to be produced, aired and to achieve success with audiences. The Commission itself has recognized the importance of Canadian drama in its decisions. The Commission's experts have singled out drama as an underrepresented genre that requires 'targeted and effective measures' to achieve greater prominence during peak viewing periods.
22. Regulations for discretionary services have successfully led to the production and exhibition of Canadian drama on these channels. ACTRA has repeatedly argued over the course of at least eight years that regulation is required to ensure high-quality Canadian drama gets produced and aired by other broadcasters and adequately supported by distribution undertakings.
23. ACTRA and the CCAU continue to urge the Commission to require over-the-air commercial broadcasters to allocate 7% of their advertising revenues to Canadian drama and scripted comedy, and to require 2 hours per week of original dramatic programming in primetime.
24. ACTRA remains concerned that should the Commission relax the rules and regulations in the current process, these changes will have particular negative impacts on the amount of homegrown drama produced in Canada, and the number of independent broadcasters in the

system.

25. Following our appearance before the Commission on April 18, 2008, the Chair agreed with us that we need more Canada on TV. We take heart in being heard by the Commission, and as we noted in our oral remarks, we, and most Canadians, look to the CRTC to regulate the system to ensure Canadians have access to our own stories.

Thank You

A handwritten signature in black ink, appearing to read 'Stephen Waddell', with a horizontal line extending to the right.

Stephen Waddell
National Executive Director
ACTRA

Appendix A – Primetime Schedules of Global, CTV, CBC and CityTV for the week of January 14-18, 2008

Appendix B – Pollara Public Opinion Poll, Canadian's Views of De-regulating Cable and Other TV Distributors, March 2008

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