



CFTPA

*Representing television, film
and interactive production in Canada*

ACPFT

*Porte-parole de l'industrie de la production
cinématographique, télévisuelle et interactive au Canada*

**Submission by the
Canadian Film and Television
Production Association (CFTPA)**

to

**House of Commons
Standing Committee on Canadian Heritage**

Study on

**The Evolution of the Television Industry in Canada
and its Impact on Local Communities**

May 6, 2009

Executive Summary

- The CFTPA submits that the Canadian television broadcasting system is now facing a determinant moment in its history, and one with immense implications for all industry stakeholders. The CFTPA believes that we owe it to future generations to ensure that a solid foundation is in place to ensure that Canadians continue to have access to high-quality Canadian content on existing and emerging platforms. In our view, such a foundation will only exist if the Canadian independent production sector and the content it creates are recognized as the cornerstones of that system.
- Looking at the communications sector from a macro perspective, we highlight the pressing need for the Government of Canada to develop a new national Digital Media Strategy. We encourage the Standing Committee, therefore, to give serious consideration to recommending the launch of national consultations, perhaps in the form of a non-partisan Royal Commission or policy review panel whose mandate would be to consult with stakeholders and develop a Digital Media Strategy for Canada.
- The independent production sector plays a fundamental role in the Canadian broadcasting system. Through the content we create, independent producers provide Canadian television viewers with a Canadian perspective on our country, our world, and our place in it. The sector also makes a very sizable contribution to Canada's economy each year, generating billions of dollars of production activity and sustaining jobs for thousands of Canadians across the country.
- Despite some growth of the sector over the last number of years, however, the hundreds of small- and medium-sized companies in our industry remain financially very fragile and corporate capacity has not improved overall to any significant degree. With unprecedented consolidation in the broadcasting sector, the shift towards digital technologies, the migration to multi-platform distribution and a very serious decrease in foreign sources of financing, Canadian independent producers must now also contend with some of the most daunting challenges ever.
- Today, rather than addressing what we believe to be relatively low regulatory obligations for private conventional or over-the-air (OTA) television broadcasters related to priority programming, especially when compared to their spending and exhibition of comparable U.S. programming, independent producers are having to fight off broadcasters' attempts to reduce or outright eliminate their Canadian priority programming (i.e., primarily drama, long-form documentary, children's and youth, and variety and performance programming) requirements, lessen the expectations placed upon them to acquire their programming from the independent production sector, and reduce local programming obligations.
- Our members are deeply concerned that broadcasters are using both the so-called "structural problems" with the OTA television sector and the current economic downturn as an excuse to reduce their commitments to Canadian priority programming and independent production.
- In our view, the private OTA television broadcasters are in denial by refusing to recognize that a significant reason for the decline in profitability of the sector is both the ever-escalating amount of money that they are spending on acquiring foreign programming – mainly U.S. shows – and the poor business decisions they have made. We highlight the fact that Canada's television broadcast ownership groups remain strong and profitable as a whole.
- Moreover, while acknowledging that there are structural problems that need addressing, the CFTPA believes that the most pressing economic challenges facing the conventional television sector are mainly cyclical and short-term in nature brought about by the decline in advertising revenues as a result of the current global economic downturn.
- We have therefore urged the CRTC, as part of its review of the broadcasters' licence renewal applications, to hold firm to the *Broadcasting Act's* overriding objectives and to not surrender to the current exaggerations orchestrated by the private OTA broadcasters. To make wholesale changes to the regulatory regime for OTA television, especially those aspects related to Canadian priority programming and independent production, when broadcast ownership groups as a whole are healthy and profitable would most certainly lead to a weaker Canadian broadcasting system and less Canadian content choices for Canadians, two outcomes that would be clearly inconsistent with the objectives of the *Broadcasting Act*.

Introduction

1. The Canadian Film and Television Production Association (CFTPA) welcomes the opportunity to provide the following comments pursuant to the House of Commons Standing Committee on Canadian Heritage's (the Standing Committee) *Study on the Evolution of the Television Industry in Canada and its Impact on Local Communities*.
2. As the national association representing the interests of almost 400 Canadian independent companies engaged in the production and distribution of English-language television programs, feature films, and interactive media content, the CFTPA considers this study to be extremely important. We applaud the Standing Committee for taking a leadership role in this area and we thank you for inviting us to appear so that we may share our views in more detail.

Television Broadcasting at a Crossroads – The Need for a 21st Century National Digital Media Strategy

3. Television broadcasting has long been recognized as playing an important role in our country's cultural and economic landscape. It contributes to Canadian identity and the democratic process. It is vital to the maintenance of our sovereignty and to the development of Canada's knowledge economy. The CFTPA submits, however, that the Canadian television broadcasting system is now facing a determinant moment in its history, and one with immense implications for all industry stakeholders. The key decisions to be made by government officials, including the CRTC, over the weeks and months ahead undoubtedly will lay the foundation that will effectively define Canada's television broadcasting system for the next generation of Canadians.
4. These decisions will influence to a large degree whether Canadians see themselves reflected in the programming they watch, no matter how or when they choose to watch it; whether young people in Canada grow up aspiring to become the next Paul Haggis, Ellen Page, Sandra Oh, Denis Arcand, Norman Jewison, or even a renowned producer, such as Niv Fichman or Denise Robert. They will also influence whether the Canadian independent production sector will be healthy enough to offer ample employment opportunities to those young Canadians and, ultimately, whether the independent production sector will be well positioned to help build a stronger creative and knowledge-based economy for Canada and to share Canada's distinct media content with the rest of the world.
5. The CFTPA believes that we owe it to future generations to ensure that a solid foundation is in place upon which all stakeholders have collaboratively built a stronger, more meaningful, and distinct television broadcasting system that lives up to Canadians' expectations for years to come. In our view, such a foundation will exist only if the Canadian independent production sector and the content it creates are recognized as the cornerstones of that system. To quote Robert MacLaren Fowler¹:

“What matters is program content; all the rest is housekeeping.”

6. Even sixty years later, in a new television broadcasting environment that is paradoxically both massively consolidated within corporate ranks yet increasingly fragmented at the audience level, these words by Mr.

¹ Shortly after the development of private television in Canada, Robert Fowler was named in 1955 to head the Royal Commission on Broadcasting. This Royal Commission was mandated to consider the problems of financing the Canadian broadcasting system and the roles of public and private broadcasters in solving them. The Royal Commission's report was tabled in March 1957 and it rejected the private broadcasters' arguments that cultural goals should be met primarily by the CBC and suggested the establishment of minimum cultural standards for private broadcasting and the creation of an independent regulatory agency to supervise broadcasting (now known as the CRTC).

Fowler remain as true as ever. The CFTPA is looking to the federal government and all its institutions to hold firm to Mr. Fowler's credo and to work in concert in laying a foundation that puts the Canadian independent production sector at the forefront and as the main vehicle to ensure that the programming available on our broadcasting system is diverse, distinctively Canadian, and inclusive of local communities. Any deviation from such a direction, we would contend, would relegate our television broadcasting system in the future to little more than a branch plant for the U.S. entertainment multinationals, acting as a mammoth pipeline through which to flood Canada with foreign, and mostly American, content.

7. Looking at the communications sector from a macro perspective, technology and the resulting shifts in markets are unquestionably eliminating distinctions between broadcasting and telecommunications. Some have even begun to coin what we are now experiencing as the Digital Revolution, a time in our history that is expected to have as profound an effect on the socioeconomic and cultural conditions of countries as the Industrial Revolution did in the late 18th and early 19th centuries.
8. As we have done in the context of various CRTC proceedings in the past, we highlight the pressing need for the Government of Canada to develop a new national Digital Media Strategy. Given that Britain, France, and Australia have all launched such initiatives, we believe that Canada is now falling behind. We encourage the Standing Committee, therefore, to give serious consideration to recommend the launch of national consultations, perhaps in the form of a non-partisan Royal Commission or policy review panel whose mandate would be to consult with stakeholders and develop a Digital Media Strategy for Canada. Such a review should take into account the need for a modernized legislative and regulatory framework to reflect the new digital media environment, the role of federal institutions, and the necessity of an updated system of support to the independent production sector.

The Fundamental Role of Canadian Independent Producers

9. You may ask what it is that independent producers do, exactly. Briefly stated, we secure and structure the financing to develop and produce programs; we hire the creative talent and crews to turn story ideas into programs; we control the exploitation of the rights to those productions, and we deliver the finished programs to broadcasters and distributors. In addition to other genres, independent producers create high-quality programming in the financially risky genres of drama, comedy, documentary, children's and youth, and variety and performing arts – largely what the CRTC calls Canadian “priority programming.”
10. The independent production sector plays a fundamental role in the Canadian broadcasting system. Through the content we create, independent producers provide Canadian television viewers with a Canadian perspective on our country, our world, and our place in it. We help foster Canadian cultural choices and reflect the rich diversity of this country. This vital role has long been promoted through federal government policy and it is explicitly recognized in the objectives of the *Broadcasting Act* (the “Act”)².
11. In addition to its cultural significance, the independent production sector also makes a very sizable contribution to Canada's economy each year. The hundreds of small- and medium-sized production companies, which operate in every region of the country, generate \$2.3 billion in Canadian content production activity, including \$231 million in exports, and sustain quality jobs for close to 60,000 Canadians from many local communities ranging from Port Moody and Port Kells, to Edmonton, Winnipeg and Stratford, through Peterborough and Anjou, to Gander in Newfoundland and Labrador.

² Subsection 3(1)(i)(v) of the *Act* requires that the programming provided by the Canadian broadcasting system should, among other things, include a significant contribution from the Canadian independent production sector. Subsection 3(1)(i)(ii) of the *Act* specifies that programming should, among other things, be drawn from local, regional and national sources.

This economic activity is in addition to the \$1.8 billion of foreign location activity that is serviced by independent producers in Canada annually, sustaining another 44,000 jobs.

12. Independently produced Canadian programs receive critical acclaim both at home and abroad, are exported to hundreds of countries around the world, and achieve audience success in Canada and internationally. We would maintain that independent producers are dynamic trade and cultural ambassadors who actively showcase Canada and its communities to Canadians and to the rest of the world.
13. CFTPA members believe firmly that the above-noted broadcasting policy objectives are fundamental to the success and distinctiveness of our broadcasting system. Their importance, moreover, only increases as the system evolves in the rapidly changing communications environment in which new forms of content delivery are emerging. These policy objectives help ensure independent producers have access to the Canadian broadcasting system and promote a diversity of voices and views from across Canada.
14. The Association respectfully submits that it should be a priority of both the CRTC and the Government of Canada to ensure the long-term well-being of the Canadian independent production sector. Independent producers are better positioned than broadcasters to create the priority programming that has the greatest audience appeal. We believe that the regulatory obligations placed on conventional television licensees is entirely appropriate for the privilege granted to them of using public spectrum to deliver television content to Canadians.
15. The Association strongly believes that Canadians from across the country – whether independent producers or not – have a right to participate economically and culturally in the Canadian broadcasting system. Access to the system should not be just the purview of the broadcasters.

The Challenges Canadian Independent Producers Face

16. In partnership with the federal and provincial governments our sector has grown over much of the last decade to become a shining example of what can be accomplished through visionary policy and forward-looking public investment. Despite this growth, however, the hundreds of small- and medium-sized companies in our industry remain financially very fragile and corporate capacity has not improved overall to any significant degree.
17. With unprecedented consolidation in the broadcasting sector, the shift towards digital technologies, the migration to multi-platform distribution, and a very significant decrease in foreign sources of financing, Canadian independent producers must now also contend with some of the most daunting challenges ever.
18. It is important to emphasize that we face these new challenges while still having to deal with the long-standing difficulties associated with working next to the world's largest exporter of entertainment programming. With a small Canadian population spread out over a large territory, it is not readily possible for companies in our sector to achieve economies of scale that are comparable to those attained by the large integrated multinational entertainment companies based in the U.S. These foreign companies are able to recoup their cost of production in their much larger domestic market and spread their risk across the multitude of distribution networks they own and control. These economic advantages enable them to sell their programming in Canada at a significantly discounted price. When you add these efficiencies to the marketing muscle these foreign companies exert, it becomes abundantly clear why Canada and in particular the English-language market has long been dominated by U.S. programming and why successive governments have actively sought to support the production of Canadian programming and the Canadian independent production sector.

Consolidation in the Television Broadcasting Sector

19. Among the more recent and difficult challenges we must contend with relate to the level of corporate consolidation that has taken place in the broadcasting system and the extreme shift of power that has occurred as a result.
20. The level of consolidation is now most astounding in English Canada, where only two main privately-owned broadcast groups exist (i.e., CTVglobemedia, Canwest). Add to that mix the Citytv stations owned by Rogers, and together these three broadcast companies captured over 90% of all English-language private conventional television revenue in each of the last five broadcast years (2003 to 2007).
21. Our broadcasting system, however, is not limited to just conventional television. Over the years, Canada's major conventional television broadcasters have diversified aggressively into the specialty television sector. The more recent CTVglobemedia-CHUM transaction and the Canwest acquisition of Alliance Atlantis Communications' broadcasting assets have resulted in a very significant level of common ownership in the English-language specialty television sector.
22. Canada's two main English-language private conventional television broadcast groups (CTVgm and Canwest) currently control almost half (47%) of the English-language specialty TV services in operation today. The level of ownership concentration is even greater when one looks at only English-language analog specialty services. This is a useful analysis given that analog services account for an overwhelming majority of all English-language specialty television revenues. CTVgm and Canwest collectively own a majority voting interest in 60% of the English-language analog specialty services in operation. When Rogers is added to the calculation, collectively these three broadcast groups own a majority voting interest in 52% of the English-language specialty services in operation and 67% of the English-language analog specialty services in operation.
23. It is important to understand that Canadian broadcasters that own both conventional and specialty TV assets do not operate these assets in silos. Staff, broadcast facilities and equipment, and even programming are shared across broadcast groups' conventional TV networks and specialty TV channels.
24. Moreover, as broadcasters have consolidated over time, in lock step so too have their programming acquisition strategies. We would emphasize the broadcaster promises that greater investment in Canadian programming would occur as a result of consolidation has not materialized.
25. The trends related to programming expenses for private conventional television are troubling to say the least. Expenditures on Canadian programming were essentially flat in 2007-2008 at \$619.6 million, while expenditures on foreign programming increased by 7.4% from \$721.9 million in 2006-2007 to \$775.2 million in 2007-2008. Private conventional TV broadcasters spent approximately 1.25 times more on foreign programming than on Canadian programming in 2007-2008.
26. Not only have conventional broadcasters been spending more on foreign programs, but they are also engaging in certain acquisition practices with respect to Canadian content programming that severely undermine the independent production sector.
27. Today, most conventional TV broadcast groups require Canadian independent producers to license their programs for broadcast on many or all of their services, including their online properties, at little or no incremental cost. This practice effectively eliminates the ability of independent producers to license their programs to second and third broadcast windows as a means to finance their productions or to enhance their revenues, as was once commonplace. This is having a significant negative impact on independent

producers' ability to develop new program ideas, to grow and develop their businesses and, as a result, to increase employment opportunities for the creative community across Canada.

28. It is undeniable that the Canadian English-language television market is increasingly dominated by fewer and fewer players. The reality is that increased consolidation among Canadian television broadcasters in recent years means that there are fewer broadcast groups to which Canadian independent producers can supply diverse programming. When taken together with the hundreds of millions of dollars of public- and private-sector funding triggered by licence commitments from Canada's few broadcast groups, Canadian television broadcasters have an unprecedented amount of market power. This lessening of competition in the program buying marketplace has considerable implications for the independent production sector and for maintaining diversity of voices in the Canadian broadcasting system.
29. With each broadcasting acquisition that has materialized over the years, the CFTPA has stated that it is not opposed to consolidation in the broadcasting sector, but within limits and provided sufficient safeguards are put in place to mitigate potential issues related to gate-keeping, undue preference, or other anti-competitive practices that can be associated with increases in vertical or horizontal integration. We have suggested several measures or safeguards to mitigate the potential for such behaviour. Chief among these is that large broadcasters be required to enter into Terms of Trade Agreements with the CFTPA, on behalf of Canadian independent production companies, large and small.

The Need for Terms of Trade Agreements

30. For close to a decade the CFTPA had been signalling to the CRTC the imbalance that was slowly creeping into the system as a result of consolidation and the need for Terms of Trade Agreements between independent producers and broadcasters to redress that imbalance. We are pleased that for several years now the Commission has recognized the problem, and has noted that such Agreements will provide stability and clarity to all concerned parties. It has in many decisions expressed a strong expectation that broadcasters enter into discussions with independent producers on Terms of Trade and table draft or executed Agreements at the next licence renewal hearings. The Commission, more recently, warned broadcasters that if at renewal time this expectation has not been fulfilled it may choose to arbitrate the Terms of Trade Agreement negotiations.
31. Despite our repeated and best efforts, we regret that so far we have not been able to achieve any meaningful Terms of Trade Agreements with broadcasters. As such, the CFTPA accordingly has submitted to the Commission that staff-assisted mediation of the Terms of Trade negotiations between itself and the private broadcast groups is an option that may warrant serious consideration by the parties, and by the Commission, in the near future.
32. Commission staff mediation of the negotiations would, in the CFTPA's view, have the dual benefit of bringing a renewed focus and objective perspective to the bargaining table, while at the same time still giving the parties the opportunity to fashion their own Terms of Trade Agreements.

CBC/Radio-Canada

33. The Committee may recall that in March 2007, the CFTPA appeared before it in the context of its study on the *Role of the Public Broadcaster in the 21st Century*. During that proceeding, we highlighted that CBC Television is an essential component of the Canadian broadcasting system and to the success and viability of Canadian independent producers.
34. Further, the CFTPA believes that CBC Television has done a relatively good job of fulfilling its mandate in the face of considerable financial and competitive challenges. In our view, CBC Television continues

to deliver a valuable service to Canadians and plays a vital role as a domestic showcase for high-quality, distinctively Canadian television programs. But we believe CBC Television can and should do better and more as Canada's national public broadcaster.

35. In recent years, a combination of reduced public funding, cost increases, increased competition, and audience fragmentation has made CBC Television more reliant on commercial revenues. This has inevitably forced it to compromise on some aspects of its important mandate.
36. To be successful in achieving its essential public service mandate, the CFTPA believes that CBC/SRC requires adequate, long-term public funding. In our view, in today's rapidly evolving broadcasting and communications environment there is a constant proliferation of media choices available to Canadians. The need for a national public broadcaster that showcases almost 100% Canadian content on multiple platforms including new media platforms is more important than ever.
37. We believe the role for CBC/SRC in the 21st century should be different from commercial broadcasters. It should not simply offer programs that can achieve the largest audience in competition with private broadcasters but instead offer high-quality, distinctively Canadian programming that would not otherwise find a broadcast outlet. CBC Television must make a greater commitment to Canadian drama, documentary, children's and youth, and performance programming, as well as Canadian theatrical feature films. CBC/SRC should also fully embrace new media.
38. Accordingly, we believe that CBC/SRC's mandate should be more explicitly defined to reflect these requirements. We believe that Canada's national public broadcaster should be subject to regular reviews of its role and mandate to ensure that it remains relevant to Canadians as the broadcasting and communications environment changes.
39. The CFTPA believes that CBC Television's commitment to high-quality Canadian content should be realized through a strengthened relationship with the independent production sector. CBC Television should be a model for all other broadcasters in its dealings with independent producers.
40. It should engage in fair and equitable business practices with respect to contract terms such as paying adequate licence fees, not requiring unduly lengthy licence agreements, and equitably sharing in rights exploitation.
41. A proper funding model for the creation of independently produced Canadian programming is central to the growth and sustainability of the independent production sector. In our view, CBC Television should be playing a lead role in furthering this objective through fair and equitable Terms of Trade.

Canada Media Fund

42. We take this opportunity to publicly thank the Minister of Canadian Heritage, the Honourable James Moore, for having strongly championed the importance of the independent television and interactive media production sectors to Canada's creative economy in the last federal budget. Independent producers are grateful to the Government for having extended for an additional two years the current resource levels in support of television production, and for committing to ongoing funding in support of new media content production. These support programs are crucial to allow independent producers to leverage additional funding sources to create high-quality Canadian programming, as well as help broadcasters meet their Canadian content obligations, especially in the current difficult economic climate.
43. In the press release announcing the Canada Media Fund (CMF) it was highlighted that the CMF will be created as the Canadian Television Fund and the Canada New Media Fund are combined, reformed and

rebranded through a renewed partnership with the industry. Its mandate will be to ensure the production of quality content and to make it available on multiple platforms. Moreover, it was noted that four key principles guided the Government in its decision: i) get governance and accountability right; ii) reward success and require innovation; iii) focus the investment on what Canadians want; and iv) level the playing field.

44. We understand that both the Canadian Television Fund and the Canada New Media Fund will continue to operate under status quo for the 2009/2010 fiscal year. We also understand that a new CMF Board will be put in place in short order and that a formal mechanism will be implemented to regularly consult with key industry stakeholders such as producers, broadcasters, and creators.
45. While the CFTPA fully welcomes the focus of the new CMF on promoting innovation in Canadian content creation and distribution, we have some concerns related to the new Fund's governance and operation. We have shared these with the Minister and his staff, and we have met with Canadian Heritage officials to discuss them. We now take a moment to share those concerns with the Standing Committee.
46. With regard to getting the Fund's governance right, we believe that if the CMF is to effectively deliver on its new mandate over the years to come, it is critical that its Board be truly independent and without any real or perceived conflict-of-interest. As Standing Committee members can appreciate, with the degree of consolidation in the Canadian television broadcasting sector, particular attention must be given to ensuring that the Board members eventually appointed are not in any way related to the private-sector funding partners. Moreover, we believe that it is crucial that the composition of the Board represent a broad-based skills and experience matrix that must include expertise related to the development, financing, and exploitation of independent Canadian television and interactive media content.
47. We are very concerned, moreover, about the decision to gradually expand eligibility for CMF funding to broadcaster-affiliated production and to allow access to broadcaster in-house production. We highlight that broadcasters already control the lion's share of the limited CTF resources through the Broadcaster Performance Envelope system.
48. Expanding eligibility to broadcaster-affiliated production and allowing broadcaster in-house production to qualify for CMF funding could have the unintended consequence of further tilting the playing field in favour of broadcasters. This, we would maintain, would not be consistent with the stated goal of levelling the playing field the Government's key principles seek to achieve. This would increasingly undermine the Canadian independent production sector and would further stifle, rather than enhance, innovation.
49. As we noted earlier, a healthy independent production sector is essential to ensuring diversity of programming from every region of the country. As small businesses, independent producers are the most nimble players in the broadcasting system, making them best equipped to maximize other sources of financing and to export Canadian programming to international markets.
50. We are committed to working collaboratively with all stakeholders over the coming weeks and months to ensure that the CMF's limited funding dollars are allocated in a manner that seeks to promote innovation and creativity, foster the growth of the independent production sector, and strengthen the Canadian broadcasting system as a whole.

Current Canadian Broadcasting Environment

51. It is against this backdrop of the multitude of challenges that independent producers face that we are surprised by and disappointed with the overall direction and tone of the private OTA television broadcasters' licence renewal applications, the public hearing for which is now ongoing before the

CRTC. Today, rather than addressing what we believe to be relatively low regulatory obligations for private over-the-air (OTA) television broadcasters related to Canadian priority programming (i.e., primarily drama, long-form documentary, children's and youth, and variety and performance programming), especially when compared to their spending and exhibition of comparable U.S. programming, independent producers are having to fight off broadcasters' attempts to reduce or outright eliminate their priority programming requirements, lessen the expectations placed upon them to acquire their programming from the independent production sector, and decrease their local programming obligations.

52. Our members are deeply concerned that broadcasters are using so-called "structural problems" with the OTA television sector and the current economic downturn as an excuse to reduce their commitments to Canadian priority programming and independent production. Reduced obligations would, by definition, become the new status quo – an outcome that would represent a significant weakening of the regulatory framework that has been carefully built by the Commission over the years. This regulatory framework has, on balance, served all stakeholders in the system – including broadcasters, independent producers, the creative community and, most importantly Canadians – well.
53. The CRTC Chairman has stated on several occasions that he sees the *Broadcasting Act* as having the following two overriding objectives: Canadian content and access to the system. We are concerned that, if the Commission agrees with the proposals contained in the broadcasters' licence renewal applications related to priority programming and independent production – even on a short-term, temporary basis – these objectives would most certainly be threatened.
54. It is our strong view that the broadcasters' proposed "solution" to the challenges they face is absolutely the wrong one – either in the short or long term – and is completely inconsistent with the policy objectives of the *Broadcasting Act*.
55. While we acknowledge that the OTA television sector faces structural challenges related to fragmenting audiences, and more immediate financial pressures due to the difficult economic environment, the Standing Committee and the CRTC must look hard at one of the key factors contributing to the sector's financial challenges. In our view, the private OTA television broadcasters are in denial by refusing to recognize that a significant reason for the decline in profitability of the sector is the ever-escalating amount of money that they are spending on acquiring foreign programming – mainly U.S. shows – which, by their own admission, are delivering lower financial returns than in the past. Some of the broadcasters must also acknowledge the poor business decisions they have made.
56. Despite audience fragmentation brought on by the launch of dozens of specialty TV channels over the past decade, however, conventional private television broadcasters still can lay claim to drawing the largest audiences to the programs they schedule in peak viewing hours. We also highlight the fact that Canada's television broadcast ownership groups remain strong and profitable as a whole.
57. The CFTPA notes that the broadcasters' proposals put forward to the Commission fail to take into account a number of measures implemented by the CRTC in recent years and months to help them deal with the challenges they face. One of those is the Commission's decision in its 2007 Conventional Television Policy to gradually eliminate advertising time limits for OTA television stations. The broadcasters' proposals also fail to take into account additional revenues that they stand to earn from cable and satellite TV companies as compensation for the delivery of their signals in distant markets, as well as proposed changes to the eligibility criteria for the Local Programming Improvement Fund (LPIF) that could help sustain local news and programming.

58. Moreover, while acknowledging that there are structural problems that need addressing, including the severe imbalance in Canadian vs. foreign programming expenditures, the CFTPA believes that the most pressing economic challenges facing the conventional television sector are mainly cyclical and short-term in nature brought about by the decline in advertising revenues as a result of the current global economic downturn.
59. The CFTPA has stated repeatedly on the public record that all elements of the Canadian broadcasting system must be healthy in order for Canadians to receive the maximum benefits of a distinct Canadian broadcasting system. But while the economic downturn is having a short-term negative effect on conventional broadcast revenues, we highlight that it is also impacting virtually all Canadians and Canadian businesses, including the independent production sector and the creative community.
60. In the current difficult economic climate broadcasters have put a chill on development and production activity. Our members report that some broadcasters have stopped taking pitches from independent producers for new programs and are holding off green-lighting programs that have been in development. This is causing significant uncertainty in the Canadian independent production sector.
61. Further, we would note that, as we have highlighted in this submission, our members have been struggling with their own economic challenges long before the global marketplace began to deteriorate and the challenges faced by the private conventional television broadcasters became more pronounced. These challenges have only been exacerbated by the significant level of consolidation that has occurred in the Canadian broadcasting system over the past number of years, which has tilted the balance of power even further in favour of large corporate broadcast groups in their business dealings with independent producers, and has effectively reduced both the business prospects available to producers and the employment opportunities for the entire creative community across Canada.
62. We have therefore urged the Commission to hold firm to the *Broadcasting Act's* overriding objectives and to not surrender to the current exaggerations orchestrated by the private OTA broadcasters. To make wholesale changes to the regulatory regime for OTA television, especially those aspects related to priority programming and independent production, when broadcast ownership groups as a whole are healthy and profitable would most certainly lead to a weaker Canadian broadcasting system and less Canadian content choices for Canadians, two outcomes that would be clearly inconsistent with the objectives of the *Broadcasting Act*.
63. We would support other efforts by both the federal government and the CRTC to address the challenges currently facing local conventional television stations, and particularly those stations located in smaller markets. While our member companies may not be engaged in the production of local television news, some do produce local programming other than news. Moreover, many of our member companies are located outside of major metropolitan markets and employ people who value, and depend on, local news programming provided by conventional television stations. Such programming plays a vital role in keeping residents informed of local developments, as well as in fostering a sense of community spirit and identity. It also serves as a bridge between smaller communities and the provincial and federal political institutions that serve them, providing a local perspective on the important issues of the day.
64. As such, the CFTPA applauds the Standing Committee and the CRTC for making the health of local conventional television stations a priority. We support the CRTC's proposal to make changes to the LPIF in an effort to sustain local programming in small markets, as well as the proposal to move up the implementation date of its new distant signals policy. In our view, these measures will go a long way towards giving OTA television broadcasters immediate relief in the current difficult economic climate.

Conclusion

65. In closing, we would re-emphasize that we believe our television broadcasting system is at a crossroads and that the decisions taken over the next few months will effectively define our system for the next generation of Canadians. In our view, a solid television broadcasting foundation can only exist if the Canadian independent production sector and the content it creates are recognized as the cornerstones of that system.
66. We highlight the pressing need for the Government of Canada to develop a new national Digital Media Strategy and we encourage the Standing Committee to give serious consideration to recommending the launch of a non-partisan Royal Commission or policy review panel whose mandate would be to consult with stakeholders and develop a Digital Media Strategy for Canada.
67. While we acknowledge that the OTA television sector faces certain structural challenges and more immediate financial pressures due to the difficult economic environment, we underscore that Canada's television broadcast ownership groups remain strong and profitable as a whole. We also highlight that the most pressing economic challenges facing the conventional television sector are cyclical and short-term in nature brought about by the decline in advertising revenues as a result of the current global economic downturn.
68. We believe that the private OTA broadcasters' proposals to reduce or outright eliminate their Canadian priority programming requirements, lessen the expectations placed upon them to acquire their programming from the independent production sector, and decrease their local programming obligations is absolutely the wrong approach.
69. The independent production sector has long had to content with a multitude of its own issues and these have also more recently been compounded by the economic downturn. Despite some growth over the years, the hundreds of small- and medium-sized companies in our industry remain financially very fragile and corporate capacity has not improved overall to any significant degree. The Association respectfully submits that it should be a priority of both the CRTC and the Government of Canada to ensure the long-term wellbeing of the Canadian independent production sector.
70. We have therefore urged the Commission to hold firm to the *Broadcasting Act's* overriding objectives and to not surrender to the current exaggerations orchestrated by the private OTA broadcasters. To step back from the regulatory regime related to priority programming, independent production, and local programming would, in our view, lead to a weaker Canadian broadcasting system and less Canadian content choices for Canadians, two outcomes that would be clearly inconsistent with the objectives of the *Broadcasting Act*.
71. However, we would support other measures by both the federal government and the CRTC to address the challenges currently facing local conventional television stations, and particularly those stations located in smaller markets.