



CFTPA

Representing television, film
and interactive production in Canada

ACPFT

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

www.cftpa.ca

May 19, 2010

Via CRTC comments/interventions form

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

Dear Mr. Morin:

Re: Broadcasting Notice of Consultation CRTC 2009-661-7: Review of community television policy framework – Final Comments

1. The Canadian Film and Television Production Association (the “CFTPA” or the “Association”) welcomes the opportunity to provide these **final comments** with respect to the above-referenced Notice of Consultation.
2. The CFTPA represents the interests of screen-based media companies engaged in the production and distribution of English-language television programs, feature films, and new media content in all regions of Canada. Our almost 400 member companies are significant employers of Canadian creative talent and assume the financial and creative risk of developing original content for Canadian and international audiences.
3. These final comments are meant to supplement the Association’s initial comments filed on February 1, 2010 pursuant to the Notice of Consultation. The CFTPA has had an opportunity to review the comments made at the hearing and in filings submitted by parties in this proceeding and offers the following additional comments.

BDU contributions should not be increasingly diverted from Canadian program production

4. The *Broadcasting Distribution Regulations* allow licensed broadcasting distribution undertakings (“BDUs”) to use up to 2% of the 5% of their required contribution to Canadian programming to fund the operation of a community channel. In addition, smaller Class 1 BDUs are permitted to allocate their entire required contribution (i.e. the 5%) to their community channels, rather than to independent Canadian production funds including the Canada Media Fund (CMF).
5. Some BDUs – but certainly not all – have advocated, as part of this CRTC review, increasing the 2% level to fund their community channels. Shaw, for example, is requesting an increase from 2% to 3% “with no increase to the overall required contribution to Canadian programming.”¹ Quebecor, for its part, requests that BDUs with more than 20,000 customers be permitted to redirect the full 5% for the first 20,000 customers, regardless of

¹ CRTC Hearing Transcript, Review of community television policy framework, April 26, 2010, paragraph 584.

the size of the BDU customer base. TELUS believes the Commission should allow BDUs to direct the full 5% contribution to community programming in communities where there are less than 50,000 subscribers. Rogers, Cogeco, and Bragg, on the other hand, believe the existing levels should remain in place.

6. How critical is the BDU need to divert more Canadian production money to community channels? The rationale put forth for these proposed increases is to enable more local programming to be produced, as well as for costs associated with, for example, the conversion of the channels to high definition, close captioning, and video-on-demand. In the CFTPA's view, the arguments were not convincing. What we heard and read during this proceeding was that community television is, to quote the CRTC Chairman, a "very rich system" in relation to the size of its audience, with contributions to local expression by Class 1 BDUs in 2009 surpassing \$122 million.²
7. The CFTPA opposes any redirection of existing funds away from support for Canadian independent production funds. As we stated in our initial comments filed in this proceeding, independent producers consider it essential to maintain the modest contributions of BDUs to the creation of high-quality Canadian programming – particularly to the CMF and other independently administered production funds that support programming in the under-represented categories, including drama, documentaries, and children's and youth.
8. As stated previously, according to CRTC data, contributions from Class 1 BDUs to local expression (i.e., community channels) have surpassed contributions to the CMF on its own and the CMF and independent production funds combined since 2004.³ Nothing the BDUs presented during this proceeding has alleviated this cause for concern.
9. BDUs should not be permitted additional monies from the 5% contribution earmarked for the creation of national Canadian programming. In fact, it is questionable whether very healthy and profitable large Class 1 BDUs should be permitted to continue to redirect *any* of their mandated 5% contribution to Canadian programming to their community channels.
10. We heard evidence to support the notion that community channels provide benefits to BDUs, offering a local presence, a vehicle to promote their corporate images, and the flexibility to cross-promote their services. As Bell stated in relation to its proposal for one shared BDU community channel per market,

The funds used by cable companies to finance community channels are public funds sourced from Canadian BDU subscribers and earmarked by the Commission to fund Canadian programming. They should not be used for competitive purposes.⁴
11. As such, community channel funding should be a cost of doing business for these BDUs. At minimum, any increase in community television funding cannot come at the expense of independent production funds used for the creation of quality Canadian programming.

Any new DTH community channels must not be funded from Canadian program production monies

12. Certain BDUs proposed the introduction of DTH national community channels. The CFTPA does not object in principle to the concept of DTH community channels. Regardless, if the CRTC were to consider permitting the creation of DTH community channels, it must not allow a portion of the mandated contribution of a percentage of DTH BDU gross revenues to Canadian programming to be redirected to such "community" programming.

² CRTC Hearing Transcript, Review of community television policy framework, April 28, 2010, paragraph 2416-2418.

³ CRTC Statistical and Financial Summaries for Broadcast Distribution – Class 1, 2 and 3.

⁴ CRTC Hearing Transcript, Review of community television policy framework, April 30, 2010, paragraph 4856.

13. Any redirection of funding that currently flows to Canadian independent production funds for the creation of quality Canadian national programming would have a significant negative impact on the quality and volume of such programming produced. That would not be in the public interest.

Advertising revenue would require higher BDU obligations to support Canadian programming

14. The CFTPA is of the view that no compelling evidence was presented in this proceeding to suggest that advertising revenue on community television is necessary for BDUs to support community programming. The Association continues to believe that, given the economic challenges facing local over-the-air (OTA) television broadcasters, it would not be prudent at this time to change the Commission's existing policy prohibiting BDU-operated community channels from soliciting and broadcasting commercial advertising.
15. The depression in advertising rates that would result from adding more advertising inventory into the broadcasting system at this time would hurt all broadcasters. This would ultimately have a negative impact on spending on Canadian programming given that the Canadian programming expenditures of many licensed Canadian programming services are directly tied to revenues, including OTA broadcasters beginning in 2011.
16. If the Commission were to allow BDU-operated community channels to solicit and broadcast commercial advertising, it would also necessitate a commensurate reconsideration of the obligations of BDUs who operate these channels with respect to their support of Canadian programming to ensure no net decline in Canadian content in the system.

Conclusion

17. The CFTPA opposes the proposals from some BDUs to divert more of their required contribution to Canadian production funds to fund the operation of a community channel, whether existing or new. Nothing currently prevents those BDUs that wish to contribute more to the operation of their community channels from doing so from their general corporate revenues. In other words, BDUs should be required to fund any increases they believe necessary outside of the mandated 5% contribution to Canadian program production.
18. Community television funding should not be at the expense of essential independent production funding, in particular for under-represented programming. The CFTPA submits that even the current 2% level of Canadian program funding that is diverted by BDUs to community programming is hardly justified. In fact, as a cost of doing business, very healthy and profitable large Class 1 BDUs should not be permitted to redirect *any* of their mandated 5% contribution to Canadian programming to their community channels, especially since these channels have provided these BDUs with a competitive advantage over some of their BDU competitors.
19. The CFTPA appreciates the opportunity to submit these final comments.

All of which is respectfully submitted.

Yours truly,

[Original signed by Norm Bolen]

Norm Bolen
President and CEO