

RESPONSE TO BROADCASTING PUBLIC NOTICE
CRTC 2005-81

**Response to the Commission's call
for comments on Viewing and Expenditure
Incentives for English-language Canadian Drama**

12 October 2005

Submitted by the
Canadian Film and Television Production Association

Introduction

1. The Canadian Film and Television Production Association (CFTPA) welcomes this opportunity to **comment** on the Commission's proposed viewing and expenditure incentives for English-language Canadian television drama, as set out in Broadcasting Public Notice CRTC 2005-81. Our membership has a vital interest in this proceeding and its intended consequence which is to ensure that more Canadian drama appears on Canadian television screens in the heart of prime time.
2. The Association represents the interests of more than 400 companies engaged in the production and distribution of English-language television programs, feature films and interactive media products in all regions of Canada. Our 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. In terms of the Canadian broadcasting system, it is independent producers who create the priority programming that has become an important benchmark used by the CRTC to assess broadcaster performance.

CFTPA's participation in the Commission's drama incentives initiative

3. Public Notice 2005-81 is the third phase of the Commission's initiative to encourage English-language conventional and specialty broadcasters to increase expenditures on, and the production of, high quality original Canadian drama as well as increased viewing to such programming. CFTPA provided detailed responses to both the CRTC's initial public notice in September 2003, entitled *Support for Canadian television drama* (Public Notice 2003-54) and its May 2004 notice (Public Notice 2004-32) which set out the Commission's proposed incentives approach. CFTPA put forward 15 recommendations in the first phase of the drama incentives proceeding and a further 18 in phase two.
4. More than two years ago, the CRTC had identified the problem – an inadequate amount of original Canadian dramas on our television screens in prime time – and CFTPA commented on some of the measures needed to rectify it:
 - A strong commitment from private and public sector broadcasters to collaborate with the production and creative sectors to effect a renewed emphasis on drama.
 - Specific broadcaster commitments to drama programming, within the broader category of "priority" programming.
 - Establishing as a goal the doubling of the amount of original Canadian drama productions that are exhibited in prime time.
 - Better funding of all aspects of drama production, including higher licence fees, more investment in script and concept development and improved promotion and marketing.

- A concerted effort to schedule Canadian drama programs appropriately – with consistency, forethought and prominence of place.
5. In our November 2003 submission, the Association noted that the CRTC had recognized that “Canadian drama is in a state of crisis. Drastic action must be taken if we wish to ensure that more than a tiny fraction of our prime time television schedules is devoted to original Canadian drama production.”
 6. In discussing the realities of the English-Canadian market, we noted how the regulatory system protects conventional and specialty broadcasters through such means as restricted market entry, genre protection, and financial obligations tied to revenues. The ability of broadcasters to include CTF licence fee top-ups as part of their Canadian program expenditures and the simultaneous substitution provision are other means that have evolved to provide incentive and stimulus to Canadian broadcasters.
 7. To quote our remarks at that time:

The simulcast provision is pegged by advertisers as a 30% bonus in viewers. No other country in the world is subject to such a direct disadvantage, which is effectively authorized by regulatory sanction.

Yet, it can be argued that simultaneous substitution cross-subsidizes the funding of indigenous Canadian production by increasing broadcaster profits. The downside is that, by its very nature, the provision gives highest priority to scheduling US programming in prime time. Conventional broadcasters are reluctant to schedule Canadian dramas in time slots where they can maximize audiences by simulcasting hugely popular and well-promoted American hits....

The only factor within the Canadian market that can compensate for this serious imbalance is public investment in domestic film and television production. In essence, then, government support initiatives, such as the CTF licence fee top-up and tax credits, are necessary supply-side incentives for original domestic production.
 8. Among our recommendations back in November 2003, were that conventional television broadcasters should be required to commit a set percentage of revenues for Canadian drama. We recommended 7% or 8% of revenues as an appropriate minimum commitment. We proposed that the goal should be to double the amount of original Canadian drama productions exhibited in prime time and that a doubling of the existing level of drama expenditures would be required to achieve this objective.

9. Our June 2004 submission reiterated that annual spending by conventional broadcasters on original Canadian drama should be 7% to 8% of revenues, to be attained over five years. We recommended that on a three-year basis, an increase to 6% was appropriate. With regard to viewing targets, we recommended that the goal should be doubling the level of viewing to Canadian drama attained in 2002, as a percentage of viewing to all drama.

The CRTC's proposed drama viewing and expenditure targets

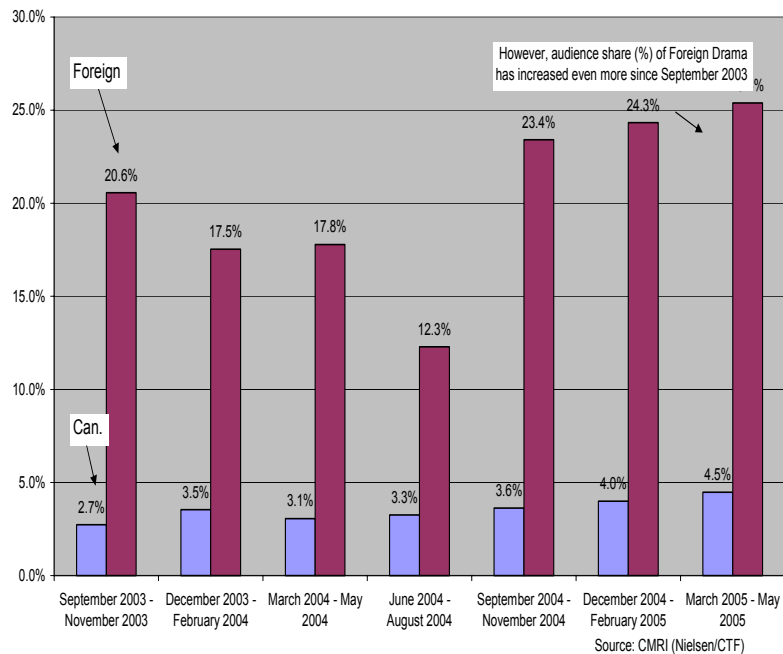
10. Public Notice 2005-81 establishes drama viewing and expenditure targets for conventional English-language Canadian broadcasters to be met over a five-year period. 2003/04 was selected as the base year and year one has been deemed to be the broadcast year just concluded.
11. The Commission has established an overall viewing target of 16.5%, to be attained by each of CTV, Global and CHUM by 2008/09, and a drama expenditure target for each ownership group of 3.9% in the 2004/05 broadcast year (which ended 31 August), increasing in increments of about 0.5% to a level of 6% in the 2008/09 broadcast year.
12. CFTPA considers these target levels to be inconsistent with the need for dramatic action already cited by the Commission.
13. The Public Notice states that actual drama expenditures by the conventional television sector for the 2003/04 year, excluding CTF top-ups and benefit spending associated with ownership transactions, represented 3.3% of revenues. (In 2002/03, the amount was 3.7 %.)
14. While the CFTPA had proposed a five-year expenditures target in our November 2003 submission, we are deeply concerned that the two-year lag between the first phase of the drama incentives proceeding and this target-establishing phase, has resulted in the Commission establishing a targets that are still five years out, rather than the three-year phase-in period we had recommended in phase two.
15. Using the actual drama viewing and expenditure levels from 2003/04 broadcast year as the baseline, **CFTPA recommends that the proposed five-year targets be attained in three years, or by the end of the 2006/07 broadcast year.**
16. The most recent quarterly report on prime time priority Canadian programming on English-language television prepared for the CFTPA by Canadian Media Research Inc. indicates that in the period March through May 2005, Canadian drama represented 4.5% of the schedules of all English television programs, while non-Canadian drama represented almost twice that at 9.7%. In the same time period, Canadian drama achieved an audience share of 4.5% while foreign

drama attracted an audience share of greater than 25%. This indicates that Canadian conventional broadcasters are far from achieving the viewing targets established by the Commission.

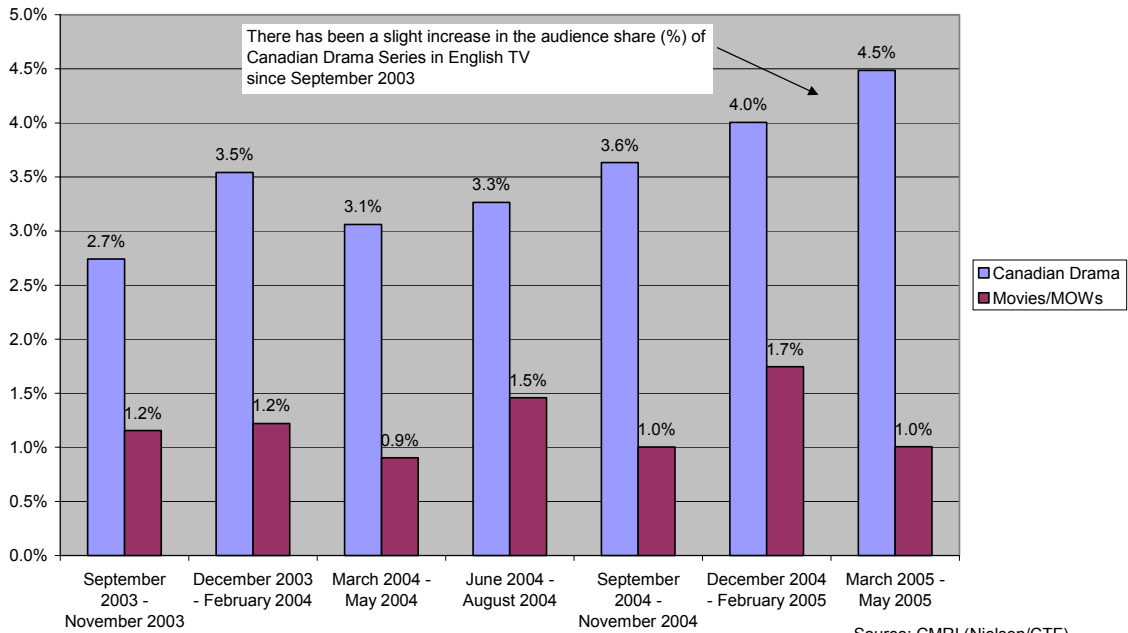
17. The attached tables indicate that since September 2003, when the CRTC first raised the possibility of Canadian drama incentives, the audience share of foreign drama viewing has increased substantially:

- foreign drama viewing increased from 20.6% September to November 2003 to 23.4% for the same period in 2004 (an increase of greater than 11%) and rose again to more than 25% for the period March to May 2005)
- viewing to Canadian drama during the same September to November period increased from 2.7% to 3.6% between 2003 and 2004, and rose to 4.5% for the March – May 2005 period.

Percentage of Audience (2-plus) Captured by Canadian vs. Foreign Drama Programs,
September 2003 to May 2005, Prime Time (7-11pm), All Canada,
All English TV



**Percentage of Audience (2-plus) Captured by Canadian Drama Programs,
September 2003 to May 2005, Prime Time (7-11pm), All Canada,
All English TV**



18. CFTPA is attaching to this submission a report on broadcaster profitability, commissioned from Nordicity Group Ltd. , *Analysis of Canadian Broadcaster Financial Performance and Programming Expenditures* (46 pages) and a Summary (8 pages). It provides evidence that Canada’s large broadcast ownership groups are operating with healthy profit margins. This is another reason why the Association considers that it is appropriate for the Commission to put in place an expedited time frame to meet its drama expenditure targets.

19. CFTPA notes that that there is a strong correlation between expenditures and viewing. In 2002, conventional television broadcasters spent \$365.7 million on non-Canadian drama compared to Canadian drama expenditures of \$77.2 million. In 2003, foreign drama expenditures increased by more than 10% to \$382 million, against Canadian drama expenditures of \$93 million. In 2004, foreign drama expenditures declined by about 10% to \$372.7 million, but Canadian drama expenditures also declined by more than 10% to \$81.9 million. This is not encouraging.

20. CFTPA is deeply concerned about the imbalance in conventional broadcaster expenditures on Canadian versus foreign drama programming. We are also concerned that the drama incentives initiative, which permits Canadian broadcasters to insert additional advertising in simulcast US programs, will have the indirect effect of increasing even more the cost of acquired foreign drama programming.

21. We also consider it essential that the CRTC track the success of the drama incentives program prior to the next round of licence renewals. The network and station licences of CTV and Global expire 31 August 2008 and those of CHUM in August 2009. Since the CRTC's practice is to schedule the renewal hearings in the late fall or winter months of the last year of the licence term, it is important that the actual performance of the conventional broadcast ownership groups in relation to the funding, exhibiting and promotion of original Canadian drama be fully assessed prior to the conclusion of the current licence term.
22. **We further recommend that the CRTC publish the viewing and drama expenditure levels of the ownership groups for the 2004/05 broadcast year as soon as the data is available, or no later than the end of this calendar year.** If the broadcasters have not improved their performance with regard to the funding, promotion and exhibition of original Canadian drama over the past two years, during a time when the Commission was taking every opportunity to emphasize the vital importance of this initiative, it confirms the need for regulatory intervention and emphasizes the vital role of the CRTC in this complex matter.
23. The large broadcast ownership groups are publicly traded companies that have been granted the privilege of a licence to operate a programming undertaking within the Canadian broadcasting system. The details of their expenditures on all areas that pertain to the key regulatory requirements imposed on them by the CRTC should be fully open to public scrutiny.
24. Consistent transparent reporting of broadcasters' financial activity – at the level of program expenditures, by genre and by source of production, with equity investment reported separately from licence fees – is one of the few measures available to the public to assess broadcaster activity.

Conclusion

25. As content creators, we are convinced that it is through the continued presence, in significant amounts, of quality Canadian programming that Canadians can best be assured that we will continue to have a distinctive Canadian broadcasting system. It is singularly ironic that the Canadian broadcasters who are charged with this responsibility have shown reluctance to meet this obligation.
26. We consider it imperative that a reasonable level of broadcaster spending on the creation of original Canadian drama be established. In our experience, expenditure requirements are the best means of achieving the goal of providing more, high quality Canadian drama to Canadian audiences.
27. Various broadcast ownership groups have applied to take advantage of the drama incentives. It is essential that their performance in this regard be reported

to the public annually. Our interventions in the earlier two phases of the drama incentives initiative and in response to the Commission's call for comments on a proposal to accord confidentially to the detailed financial information provided to the Commission in the annual returns of pay and specialty programming services, (Broadcasting Public Notice CRTC 2005-42) have set out the details of the information that we expect the Commission to make public.

28. We are convinced that a three-year time frame (commencing with the current broadcast year) is more appropriate than the five-year period proposed by the Commission. In part this is because of the urgency of ensuring sufficient shelf space and funding for original Canadian drama in the heart of prime time. Another factor is that the broadcast industry has already been on notice for almost two years that increased Canadian drama production is of importance to the Commission.
29. The expedited time frame we recommend would mean accelerated viewing and expenditure increments. The attainment of these goals would be evidence that Canada's conventional television broadcasters are serious about improving their performance with regard to exhibiting and promoting Canadian drama. It would also mean that there would be a clear track record of drama initiatives by the major ownership groups prior to the Commission's consideration of their next licence renewal hearings.
30. The Association would expect that, at renewal, the CRTC would be requiring Canada's conventional television broadcasters to achieve even higher levels of expenditure commitments to original Canadian drama.

Sincerely,



Guy Mayson
President and CEO

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Attachments (2)