



## Broadcasting Notice of Public Hearing CRTC 2007-15

Ottawa, 5 November 2007

### Proceeding on the Canadian Television Fund (CTF) Task Force Report

*The Commission will hold a public hearing commencing on and for the week of 4 February 2008 at 9 a.m. at the Conference Centre, Phase IV, 140 Promenade du Portage, Gatineau, Quebec to consider the recommendations made by the CRTC Task Force on the Canadian Television Fund (the Task Force).*

*After having reviewed the public comments received in response to Broadcasting Public Notice 2007-70 (Public Notice 2007-70) concerning the Task Force's report, recommendations and proposed implementation schedule, the Commission considers that it is appropriate to include an oral hearing phase in its review of issues related to the funding of Canadian programming and the governance of the Canadian Television Fund. The comments received in response to Public Notice 2007-70 will be included as part of the written record for this public hearing.*

*The Commission notes that any parties who wish to appear at the hearing, including those who may have already informed the Commission in their response to Public Notice 2007-70 of their desire to appear at a public hearing, must state their intention to appear in this proceeding by **14 December 2007**. In addition, parties are asked to clearly identify the issues that they would like to address at the hearing so that the Commission may optimize its scheduling of appearances.*

#### Introduction

1. On 20 February 2007, the Commission established the CRTC Task Force on the Canadian Television Fund (the Task Force) to investigate issues related to the funding of Canadian programming and the governance of the Canadian Television Fund (CTF).
2. Following extensive consultations with all sectors of the television broadcasting industry, the Task Force prepared a report for the Commission. The Commission placed this report on its Web site on 29 June 2007. In its report, the Task Force made a number of recommendations to increase the efficiency of the CTF, to encourage greater participation by broadcasting distribution undertaking (BDU) representatives and to clarify the roles of the Board and the CTF staff. A summary of the recommendations can be found in the appendix to this notice.

3. In its findings and conclusions, the Task Force affirmed the important role played by the CTF and the independent production sector in producing quality Canadian television programs. However, given the increasingly competitive environment facing Canadian broadcasting, the Task Force also recommended that the current objectives of the CTF be broadened to include more support for Canadian television programs that succeed with Canadian audiences.
4. In order to achieve this goal, the Task Force proposed, among other things, that the Commission amend the *Broadcasting Distribution Regulations* (the BDU Regulations) so that the funds contributed by BDUs would be allocated to a more flexible and market-oriented private sector funding stream.
5. In Broadcasting Public Notice 2007-70 (Public Notice 2007-70), the Commission stated its preliminary view that it was in agreement with the recommendations of the Task Force and that it accordingly intended to implement those recommendations falling within its powers. However, in order to help ensure that the procedural and substantive steps needed to implement these recommendations were as effective as possible, the Commission sought comments from interested parties on the Task Force report as a whole, as well as on a number of identified implementation issues. Those comments were to be filed by 27 July 2007.
6. In response to Public Notice 2007-70, the Commission received comments from 184 interested parties representing all sectors of the broadcasting industry. These addressed a wide range of programming production topics and the majority of the Task Force recommendations regarding the CTF.
7. The recommendations that elicited the most comments were the creation of a private sector funding stream (recommendation 1), the establishing of an administration plan with three essential criteria for the new funding stream (recommendation 2), the amendment of the BDU Regulations to include a statement of objectives for this stream (recommendation 19), and the proposed implementation schedule (recommendation 24). A significant number of parties requested some form of public hearing or further public process.
8. In view of the broad response to Public Notice 2007-70 and the evident desire of many parties to make further submissions regarding the issues raised by the Task Force recommendations as well as the written comments submitted by interested parties, the Commission considers that it is appropriate to include an oral hearing phase in its review of the recommendations and broader issues related to the funding of Canadian programming and the governance of the CTF.

## **Matters for the Public Hearing**

9. Without restricting the range of matters concerning the Task Force report and recommendations that parties may wish to address at the hearing, the Commission has identified below a number of matters concerning which it is particularly interested in seeking input at the hearing. The Commission notes that the comments received in response to Public Notice 2007-70 will be included as part of the written record for this public hearing and that it does not consider it necessary to seek further written comments in advance of the oral phase. The Commission notes further that, in addition to the written transcript of the hearing submissions, the hearing panel may request parties to provide further written submissions after the hearing on select topics as may be deemed appropriate to complete the written record.

### **Measurement tools and definitions for the proposed private sector funding stream**

10. With respect to recommendation 19, parties raised concerns regarding how best to define terms such as “audience success” and “potential return on investment.” For example, some parties queried whether or not there should be different measurement parameters for different genres of programming provided by different types of programming undertakings.
11. The Commission has accordingly identified the following issues for discussion at the public hearing:
  - What measurement tools are most appropriate for the CTF to use to evaluate audience success?
  - Is it necessary for the measurement tools to be adapted and applied so as to appropriately differentiate and gauge audience success in the case of various genres, such as children, drama, etc.? If so, describe the required modification(s) to these measurement tools.
  - How should the transition to a new audience measurement evaluation system be managed given that for at least two years there would be little or no data upon which to base allocations?

### **French-language market particularities**

12. Certain parties advocated that the particularities of the French market should be reflected in the measurement and definition of audience success with respect to the French-language market and that the impact, if any, of a new private sector funding stream on the attribution of CTF funds to French-language productions should be considered.

13. The Commission has accordingly identified the following issues for discussion at the public hearing:

- What measures, if any, should the CTF take in order to best adapt a new private sector funding stream to the French-language market particularities?
- Should a new private sector funding stream be divided based upon the linguistic makeup of the market?

**Other related matters**

14. The Commission has also identified the following related issues for discussion at the public hearing:

*Additional sources of funding for the CTF*

- Should the Commission require new or increased contributions to the CTF from video-on-demand (VOD) and/or BDU contributors?
- What other sources should the Commission consider in order to increase CTF funding?

*Educational programming*

- What measures should the CTF take to ensure appropriate support for programming licensed by educational broadcasters?

*Independent producers*

- What would be the best ways to maximize input from the independent production sector?

*Special initiatives*

- How should the following special initiatives identified in the Contribution Agreement be applied in the context of a CTF that administers both the government and BDU or other private sector funding?
  - Aboriginal productions
  - French-language productions outside Quebec
  - Development financing
  - Versioning assistance

## Public proceeding

15. The Commission will hold a public hearing commencing on and for the week of **4 February 2008 at 9:00 a.m. at the Conference Centre, Phase IV, 140 Promenade du Portage, Gatineau, Quebec** to address the recommendations of the Task Force report and the specific issues identified above.
16. Comments received in response to Public Notice 2007-70 will form part of the record for this public hearing.
17. Following the oral public hearing, interested parties may have an opportunity to file brief final written comments.
18. Parties wishing to appear at the public hearing must submit their request to do so by **14 December 2007**. The Commission notes that any parties who informed the Commission of their intent to appear at a public hearing in response to Public Notice 2007-70 must restate their intention to appear in this proceeding. Parties requesting appearance must set out the specific issues they would like to address at the hearing. The Commission will subsequently inform parties whether their request to appear has been granted. While submissions will not otherwise be acknowledged, they will be considered by the Commission and will form part of the public record of the proceeding, provided the procedures set out herein have been followed.
19. The Commission intends to begin the hearing by giving the CTF an opportunity to provide its comments. The Commission also intends to permit the CTF to make a final comment at the conclusion of the hearing.

## Procedure

20. Interested parties can file their request to appear and specify the issues they would like to address to the Secretary General of the Commission:
  - **by using the**  
[Broadcasting Intervention/Comments Form](#)

OR

  - **by mail at**  
CRTC, Ottawa, Ontario K1A 0N2

OR

  - **by fax at**  
(819) 994-0218

### **Important notice**

21. Note that all information that you provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, e-mail or through the Commission's Web site at [www.crtc.gc.ca](http://www.crtc.gc.ca), becomes part of a publicly accessible file and will be posted on the Commission's Web site. This information includes your personal information, such as your full name, e-mail address, postal/street address, telephone and facsimile number(s), and any other personal information you provide.
22. The personal information you provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission or for a use consistent with that purpose.
23. Documents received electronically or otherwise will be put on the Commission's Web site in their entirety exactly as you send them, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
24. Please note that the information you provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of our Web site with the help of either our own search engine or a third-party search engine will not provide access to the information provided as part of this public process.
25. The Commission encourages interested parties to monitor the public examination file and the Commission's Web site for additional information.

### **Examination of public comments and related documents at the following Commission offices during normal business hours**

Toll-free telephone: 1-877-249-2782

Toll-free TDD: 1-877-909-2782

Central Building

Les Terrasses de la Chaudière

1 Promenade du Portage, Room G-5

Gatineau, Quebec K1A 0N2

Tel: (819) 997-2429 - TDD: 994-0423

Fax: (819) 994-0218

Metropolitan Place  
99 Wyse Road  
Suite 1410  
Dartmouth, Nova Scotia B3A 4S5  
Tel: (902) 426-7997 - TDD: 426-6997  
Fax: (902) 426-2721

205 Viger Avenue West  
Suite 504  
Montréal, Quebec H2Z 1G2  
Tel: (514) 283-6607

55 St. Clair Avenue East  
Suite 624  
Toronto, Ontario M4T 1M2  
Tel: (416) 952-9096

Kensington Building  
275 Portage Avenue  
Suite 1810  
Winnipeg, Manitoba R3B 2B3  
Tel: (204) 983-6306 - TDD: 983-8274  
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Cornwall Professional Building  
2125 - 11<sup>th</sup> Avenue  
Room 103  
Regina, Saskatchewan S4P 3X3  
Tel: (306) 780-3422

10405 Jasper Avenue  
Suite 520  
Edmonton, Alberta T5J 3N4  
Tel: (780) 495-3224

530-580 Hornby Street  
Vancouver, British Columbia V6C 3B6  
Tel: (604) 666-2111 - TDD: 666-0778  
Fax: (604) 666-8322

Secretary General

**Related documents**

- *Call for comments on the Canadian Television Fund (CTF) Task Force Report, Broadcasting Public Notice CRTC 2007-70, 29 June 2007*
- *Report of the CRTC Task Force on the Canadian Television Fund, 29 June 2007*

*This document is available in alternative format upon request and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>*



## **Appendix to Broadcasting Notice of Public Hearing CRTC 2007-15**

### **Summary of the recommendations of the CRTC Task Force on the CTF**

#### **A. CTF**

1. The CTF should establish a market-oriented private sector funding stream consistent with the draft objectives proposed by the Task Force for inclusion in the amended sections 29 and 44 of the BDU Regulations.
2. The CTF should develop a plan for the administration of the proposed private sector funding stream, including simple and flexible program guidelines. The Task Force proposes the following as essential criteria for the new funding stream:
  - Underlying rights are owned and significantly and meaningfully developed by Canadians;
  - Projects must reflect Canadian experiences; and
  - Projects must be certified by CAVCO and attain a minimum of 8/10 points.
3. The CTF Board should explore the feasibility of equity investments or other forms of financial participation in all projects funded through the private sector stream.
4. The CTF Board should increase the minimum licence fee paid by broadcasters for CTF-supported productions.
5. The CTF Board should consider, when establishing the Broadcaster Performance Envelope (BPE), any self-administered benefits money approved by the CRTC to be allocated during that year.
6. The CTF Board should reduce the amount of federal tax credits permitted to be included in the financing structure of a production to a maximum of 50%.
7. The CTF should establish a new funding stream of up to \$25 million from current CTF revenues to support Canadian programs designed for new media platforms. In addition, the CTF could allocate an appropriate portion of any new sources of revenue to this new media funding stream.

8. The CTF should explore new means of permitting broadcasters and producers to exploit new media platforms related to CTF projects by investigating appropriate measures or agreements originating within other jurisdictions or, should this experience not prove sufficiently relevant, by establishing, on an interim basis, a 50/50 sharing of net revenues – unless the parties agree to an alternative arrangement.
9. In addition to the reporting requirements set out in the Contribution Agreement with the Department of Canadian Heritage (DCH), the CTF should develop an annual public reporting mechanism with respect to all funds using BDU contributions. Such annual reports should include information setting out the objectives of the Fund and, broken out by performance envelopes, the projects receiving CTF support, the reasons why these projects were supported and the available evidence to demonstrate the success of these projects in attracting audiences.
10. The CTF Board should devise and implement a clear communications strategy designed to ensure that contributors, government and the Canadian public are made aware of the objectives of the Fund and its progress in achieving these objectives. The Board should invest in a senior staff position to be responsible for such ongoing communications and government relations.
11. The CTF Board should form a nominating committee consisting of contributing members. Member association should provide the nominating committee with a list of potential candidates for Board membership.

The nominating committee would propose for ratification at the annual general meeting based on these proposals:

- a) the names of new Board members (other than the five members to be appointed by the DCH) and
- b) the names of the Chair and other members of the Executive Committee (2 Vice-Chairpersons, Treasurer).

The DCH would nominate its five new directors prior to or at the annual general meeting. These nominations are not subject to ratification.

12. The CTF should create an additional position on the Board for a second representative of the direct-to-home (DTH) sector.
13. The CTF should take steps to ensure that direct recipients of CTF funding no longer be members of the CTF Board, while also ensuring that the perspectives of the independent production sector continue to form an important part of CTF deliberations.
14. The Chair and President and CEO of the CTF Board should be nominated from the independent Board members or from those members representing contributors. The Chair should be remunerated on the same basis as other directors.

15. The CTF should amend its by-laws to specify that:
- a) the title and functions of the President shall be changed to “President and CEO”;
  - b) the President and CEO shall be hired by the Board and will report to it;
  - c) the President and CEO shall be an ex officio member of the Board, without voting privilege; and
  - d) the President and CEO shall hire the CTF’s staff, which will report to the President and CEO.
16. The CTF Board should clearly define the respective roles of Chair and President and CEO.
17. The CTF Board should develop and implement a policy identifying the different and complementary roles of the Board and staff.

## **B. Broadcast Distribution Undertakings (BDUs)**

18. The BDU contributors should organize themselves for the purpose of membership in the CTF and of proposing directors.

## **C. The CRTC**

19. The CRTC should undertake a public review leading to the establishment of a clear statement of the objectives for BDU contributions to the CTF and the BDU Regulations should be amended so that sections 29 and 44 include a description of the objectives of the private sector funding stream to which monies must be contributed. The Task Force proposes the following as draft objectives:
- Qualifying Canadian programming must meet a minimum of 8/10 points using the CAVCO scale, be broadcast in prime time, and continue to fall within the CTF’s traditional genres of drama, children’s and youth, documentary and variety/performing arts programming.
  - Audience success must be the primary criterion for continued funding.
  - Actual and potential return on investment must be a factor in allocating funding, while taking into account the different realities of English and French markets.
20. The CRTC should amend the BDU Regulations in order to require all contributing BDUs to pay the required amount to the CTF on a monthly basis.

21. The CRTC should conduct ongoing reviews, on a regular basis, to ensure that the CTF implements this private sector funding stream.
22. The CRTC should amend its benefits policy so that an appropriate portion of tangible television benefits be allocated to the CTF.
23. The CRTC should amend its policy with respect to certified independent production funds in order to provide such funds with greater flexibility to support new media projects.
24. The CRTC should adopt the Task Force's proposed implementation plan.