CBC Radio-Canada

21 February 2005

Ms. Diane Rhéaume
Secretary-General
Canadian Radio-Television &
Telecommunications Commission
Ottawa, Ontario
K1A ON2

Re: **<u>Broadcasting Public Notice CRTC 2004-47-1, Call for responses to submissions on the Canadian Cable Telecommunications Association's proposal to amend the policy regarding the use of local availabilities</u>**

Dear Ms. Rhéaume:

1. The Canadian Broadcasting Corporation/Radio Canada ("CBC/Radio-Canada") is pleased to provide the following comments on the submissions received in response to Broadcasting Public Notice CRTC 2004-47-1, in response to proposals by the Canadian Cable Telecommunications Association ("CCTA") and Videotron to amend the policy regarding the use of local availabilities contained in the programming of eligible U.S. satellite services.

2. For the reasons set out in CBC/Radio-Canada's submission filed on October 7, 2004, we oppose these applications to insert advertising in the local availabilities of US satellite services on the basis that they:

   i) would result in a loss of advertising revenues for Canadian broadcasters;
   ii) would decrease the promotional opportunities for all licensed Canadian programming services, including CBC/Radio-Canada's radio, television and specialty television services; and
   iii) would grant BDUs access to local and national advertising pools.

3. In addition, since the filing of CBC/Radio-Canada's October 7, 2004 submission opposing these proposals, a new element, the Commission's drama incentives program, has been added to the Canadian advertising

market. Approval of CCTA's proposal in this new environment would now be even more harmful and problematic for the broadcasting industry.

4. The proposals in their current form are unacceptable. As discussed in this submission in greater detail, they would have a negative economic impact on the Canadian broadcasting system as a whole and on CBC/Radio-Canada in particular. In this public notice, the Commission has specifically asked for responses to submissions on the CCTA's proposal. Given the fact that the CCTA filed its proposal nearly two years ago in a dramatically different broadcasting landscape, we would be prepared to consider an alternative proposal that would take into account the new regulatory environment and maximize support for Canadian programming.

The Economic Impact on Canadian Broadcasters Would be Significant

5. The CCTA has estimated that the revenue potential of its proposal is in the range of $35-$40 million dollars annually. The CAB has conservatively estimated the revenue potential of this proposal in the range of $60-70 million. CTV has provided an expanded analysis and estimates the revenue potential to be $87-$97 million. CBC/Radio-Canada's analysis supports the conclusions arrived at by the private television industry. Further, it is important to emphasize that these estimates represent a starting point for BDUs and not an upper bound.
6. The Canadian Association of Broadcaster's ("CAB") October 7, 2004 filed a submission opposing the CCTA's proposal and included a study prepared by Communications Management Inc., "*A review of the economic impact of the "local availabilities" proposal by the CCTA and Videotron*". In that study, CMI provided a top down assessment of the revenue potential of the cable industry's proposals based on blending of the methodologies used by CCTA and Videotron in their respective applications. The result is an estimated revenue impact in the $60-70 million range based on 2003 data.
7. CTV Inc's. ("CTV") October 7, 2004 submission further reinforces CAB's conclusion through its study by Strategic Inc., "*Impact Analysis: Addition of Commercial Inventory on US Services carried on Cable*". In that study, Strategic Inc. provides a detailed bottom-up analysis and estimates the revenue potential of CCTA's proposal to be $66 million on the assumption that cable BDUs are authorized to sell local avails on all U.S. specialty and superstations included on the Eligible Satellite Services Lists and that the bulk of those revenues would come from the twelve most popular U.S. services.
8. CTV's analysis goes further and assumes that if such authorization is provided to cable BDU's it would also be extended to DTH operators with the result that the impact would increase to $76 million. CBC/Radio-Canada believes that this is a reasonable expectation since both DTH operators have indicated an interest in having the same flexibility.

ExpressVu opposes the CCTA's and Videotron's proposals on the basis that it would provide an unfair competitive advantage to cable operators. However, if approved, ExpressVu argues that competitive parity requires that the CRTC extend the same advantages to DTH operators. Star Choice supports the applications provided that any changes to the Commission policy on the use of U.S. local avails extends to DTH operators.

9. Finally, CTV completes its analysis of the revenue potential of these proposals by incorporating the premiums BDUs would be able to charge for spots on the top five U.S. services, namely A&E, TLC, CNN, CNN Headline News and WTBS. CTV concludes that the real revenue potential of these proposals is in the range of $87 - $97 million.

10. CBC/Radio-Canada's analysis supports the conclusions arrived at by the private television industry. In our October 7, 2004 submission, we indicated that the potential loss of advertising revenue to our main network services would be in the range of $7-10 million. Our estimate of revenue potential is based on four conservative assumptions:

    - Only four of the premium U.S. services, CNN, TLC, A&E and CNBC, are assessed in terms of revenue potential.
    - The inventory available from these U.S. services is assumed to have the same proportionate value as the inventory of CBC and Newsworld.
    - The impact of the additional U.S. inventory is measured against similar services and similar programming. In the case of conventional Canadian television services, impacts from the four U.S. services are measured against English-language conventional TV only and only against news and entertainment programming.
    - Impacts on conventional TV are further moderated by assuming that ratings leaders such as CTV and Global are not impacted.

11. Our analysis (see Attachment A) provides share data (adults 25-54) for each of the four U.S. services and the comparable Canadian services, identifies the volume of advertising inventory, which in the case of the U.S. services would be 2 minutes per hour, and then calculates an index or supply (share times inventory). Impacts are then determined by calculating the proportion of supply represented by the four U.S. services out of the total. The revenue impact on CBC represents a range of $7 – 10 million dollars.

12. While extrapolating this analysis to the Canadian television system as a whole is simplistic, it serves as a useful crosscheck against the more detailed analysis filed by CTV and CAB in this proceeding. For example, CBC English TV represents almost 11% of total conventional English television advertising (CRTC, Broadcast Policy Monitoring Report, 2004). Assuming a strictly proportional impact, the revenue potential from an industry perspective of these proposals could range from $64 million to $90

million, which is well within the range of impacts estimated by both CAB and CTV.

13. The submissions support the conclusion that the CCTA and Videotron proposals would generate significantly more revenue than estimated by the applicants. This revenue will come entirely from Canadian broadcasters. As highlighted by numerous intervenors, there would no "net-gain" to the Canadian broadcasting system since the "contribution" proposed by the BDU's would not outweigh the loss to the Canadian television industry.

The New Drama Incentives Must Work Their Way Through the System First

14. Since the October 7, 2004 submissions, the CRTC introduced a new set of incentives to encourage more English-language Canadian television drama. These incentives, announced in Broadcasting Public Notice CRTC 2004-94 (PN 2004-94) raise the maximum number of advertisements that may be placed in licensee's schedules, according to increases in exhibition, viewing and expenditures on original Canadian drama.

15. Overall, we estimate that the new incentive scheme if adopted across the private television industry could generate upwards of $68 million in advertising revenue. This incentive will be driven by the opportunity to sell additional advertising in Top 20 programs. The incentive was designed primarily for the private television industry to encourage increased spending on and exhibition of prime time Canadian drama.

16. The challenge for CBC/Radio-Canada is twofold. One, CBC English Television does not have enough top rated programs in which new ads could be placed at a rate high enough to finance additional original Canadian drama using this incentive. Two, the revenues that can be generated from this incentive will come primarily from a reallocation of revenues within the broadcasting system. We estimate that approximately $12-20 million will be "siphoned" from CBC to private broadcasters.

17. It will take time for the Canadian television system to rebalance itself as the new drama incentive scheme works its way through the system. It would be extremely damaging to also introduce another measure that gives BDU's the opportunity to sell advertising through the local avails of U.S. specialty services.

18. The cumulative revenue impact from both of these measures would impair CBC's capacity to effectively fulfill its mandate and would stall CBC English Television's efforts to pursue its own strategy to increase the amount of original Canadian drama in its schedule.

Conclusion

19. CBC/Radio-Canada strongly opposes the proposals put forward by CCTA and Videotron to sell the local avails of eligible U.S. specialty services. The benefits proposed do not outweigh the major impact they would have across the system. CBC English Television's goal is to be the number one source of popular Canadian drama and entertainment programming. The achievement of this goal will require a stable and supportive funding base and a stable advertising environment. If accepted, these proposals will significantly disrupt the television advertising environment and the capacity of Canadian broadcasters to contribute to the objectives of the *Broadcasting Act*. For these reasons, the CRTC should reject these proposals.

Yours truly,

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cc: CCTA

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