Writers Guild of Canada

Group-based licence renewals for English-language television groups

Oral Presentation to the April 4, 2011 Public Hearing
Broadcasting Notice of Consultation CRTC 2010 - 952

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April 8, 2011

Group Licence Renewal – English Groups

[**Maureen Parker**]

Good morning. My name is Maureen Parker and I am the Executive Director of the Writers Guild of Canada, a national association representing over 2000 professional English-language screenwriters. To my left is Cal Coons, a professional showrunner and screenwriter who has created popular prime time dramas such as “Murdoch Mysteries,” and most recently worked on “The Listener.” Also with us is Kelly Lynne Ashton, our Director of Policy.

[Introduction]

The WGC has been waiting with growing urgency for this hearing since the 1999 TV Policy removed expenditure requirements from conventional broadcasters. As a result, spending on Canadian drama dropped from 4% of conventional revenues in 2000 to 1.5% in 2009. Despite the growth in specialties, the industry is still back at 1999 production volume levels – flat over 12 years. We agree with the Chair – we need to go forward rather than backward and that means learning from our mistakes. We welcome the

2010 TV Policy because it reinstates expenditure requirements, ensuring an appropriate spend by Canadian broadcasters on Canadian programming. This licence renewal hearing is necessary to implement that policy and to specify the exact expenditure percentages.

The 2010 TV Policy is aimed at giving our broadcasters added flexibility. At the same time, the Policy clearly states that these broadcasters must contribute appropriately to Canadian programming. In the group licence renewal applications the broadcasters are asking for even <u>more</u> flexibility than the 2010 TV Policy granted them, trying at every turn to minimize their obligations to Canadian programming – particularly Programs of National Interest or PNI. In our experience 'flexibility' is broadcaster code for 'more U.S. programming.' We urge the commission not to amend the policy by agreeing to a PNI expenditure requirement based on anything other than actual historical expenditure on dramas, documentaries and Awards shows. We can work with the additional flexibility but only if it comes with the necessary safeguards provided by the following three recommendations:

1. A corporate group CPE of 30% for all groups

2. A PNI CPE of 10%, with a possible exception for Rogers, and
3. The maintaining of specialty exhibition requirements and specialty conditions of licence

[Group CPE]

After years of public hearings, research and stakeholder meetings, the Commission issued the 2010 TV Policy, which clearly stated that there will be an expenditure requirement for Canadian programming, and an expenditure requirement for Programs of National Interest. We agree with the Commission's findings that a minimum of 30% for the CPE is an appropriate level. Some broadcasters have recent, actual expenditures slightly over that figure, while others are slightly under - but 30% is fair, as a common base. The intent of the policy was to establish a floor for spending on Canadian programming to ensure that broadcasters do not go forward spending less on Canadian programming than they currently do. A proportional rate is also fair given that all of these broadcasters compete for the same programs, the same audiences and the same revenue sources. They should have the same expenditure requirement.

[Kelly Lynne Ashton]

[PNI CPE]

The 2010 TV Policy also established an expenditure requirement for Programs of National Interest (defined as dramas, longform documentaries and awards shows). At the time of the Policy, the only available data was for drama programming. Analyzing drama spending only, the Commission concluded that a minimum of 5% would be appropriate. The policy goes on to say that broadcasters would be required to file historical spending on longform documentaries and award shows, and that the Commission 'will establish, at licence renewal, a base level spending requirement for programs of national interest'. So it's 5% *plus* whatever the Commission determines is the appropriate figure for longform documentaries and awards shows.

There has been a lot of additional data submitted this week – most of which we have not been privy to. None of what has appeared on the record has demonstrated to us a historical PNI spending level of only 5%. Earlier this week, Shaw submitted revised data attempting to establish that its historical PNI expenditure was only 5%, contrary to previously submitted data. This new figure was arrived at by

Shaw reclassifying as reality shows, programs previously reported as documentaries, thus reducing its PNI from about 9% to 5%. That's an awful lot of money attributed to low-budget reality shows. We'd like to see a list of the titles that were reclassified. Having benefitted from the inclusions of these programs as documentaries under the former regulatory framework, Shaw now wants to exclude them in order to reduce its historical expenditure. That just seems wrong.

With Bell, there is a different kind of problem. Bell is not denying its historical expenditure, which is over 5% - instead it is trying to lock in at 5% on the basis that it can't afford to do more. Bell is changing its business model to get away from Canadian drama. Locking in at 5% on PNI makes it easier for them to spend money on Variety programs like So You Think You Can Dance Canada – shows that no longer qualify as supported programming. But the policy was created to provide support to the hardest-to-finance shows, like dramas and longform documentaries. In this way, Bell is working to fundamentally change the 2010 Policy set down by the Commission.

We have been hearing this week that there is no need for PNI CPE levels over 5% because recent benefits packages will put more than enough money into the system. First, this is a mischaracterization of the benefits policy, which is about spending incremental to Broadcasters' existing expenditures. Second, given the increased cost of high-quality production and limited sources of financing, there is a constant need for more money in the system. The broadcasters have suggested that the production community doesn't have the capacity to meet higher production levels – our members say "Bring it on."

We've also heard from the broadcasters that Canadian drama is a money-losing proposition. We don't agree. When we filed "The Economics of Canadian Programming" report with you a few years ago, we demonstrated that Canadian programming can make money. We noted that the programming sometimes does not make money because even highly successful programs are sold to advertisers at discounted rates – just because they're Canadian. But when a drama such as "Rookie Blue" averages 1.8 million viewers, and "Flashpoint" comes in at 1.3 million viewers - that's success – in any market. And more importantly, broadcaster commitments to Canadian programming are part of their regulatory bargain – as a Canadian broadcaster, they must support the creation and presentation of Canadian programming.

As suggested in our submission, the 5% CPE on PNI seems a reasonable figure for Rogers to start with given their different asset mix. However, for the other broadcasters, all of which have assets appropriate to the broadcast of PNI programming, the WGC recommends that the Commission set a common PNI CPE of 10%. 10% is the right figure. Anything lower would do a disservice to the Canadian broadcasting system.

[Cal Coons]

[Conditions of Licence]

The 2010 TV Policy has lowered the conventional overall exhibition requirement from 60% of the broadcast year to 55%. However, the Policy clearly states that exhibition requirements for specialty services are not subject to this overall reduction and they therefore should maintain their individual exhibition requirements. The Commission has provided broadcast groups with the flexibility to allocate up to

100% of specialty expenditures to another service. To ensure that each service continues to air an appropriate amount of Canadian programming, maintaining individual exhibition requirements is crucial. Despite the Commission's clear direction to the contrary, broadcasters have repeatedly requested lower exhibition requirements for their specialty services.' We urge the Commission to deny these requests.

[Genre Protection and Programming Diversity]

The broadcasters are afforded a great deal of flexibility within the new TV Policy. They want even more flexibility by loosening genre protection, in order to be able to amortize their programming expenses across all of their services and air more U.S. programs. So, if they get their way, instead of a variety of original Canadian and foreign programming, we will get last year's House on History, Showcase, and Twist TV. Genre protection is not just about protecting services from competition but also about preserving programming diversity within the system.

In front of you, there are a number of requests to amend conditions of licence to loosen genre protection. For example, CTV has asked that Bravo! have its exhibition requirement reduced from 60% to 55%. It has also asked for the removal of Bravo!'s cap on U.S. drama in prime time. Bravo! is intended to be a performance and drama programming service. Yet the combination of these two requests would allow CTV to use Bravo!, to an even greater extent, as a rerun channel for U.S. drama. Because Bravo! does not have a narrative description in its licence that can be enforced, it is even more important that specific conditions of licence are maintained.

Another example is Showcase. Shaw requested that the Commission amend the condition of licence limiting Showcase to 10% U.S. programming and raise it to 50%. This is contrary to their oral presentation in which they referred to a minor increase to 20%. Though Showcase does not have a narrative description, it was licensed to provide Canadians with access to the best programming from around the world and Canada. If Showcase is allowed to substantially increase its U.S. programming, it will fundamentally change its nature of service and run the risk of becoming yet another rebroadcaster of U.S. shows. What is the point of being a Canadian cable subscriber when every channel looks the same?

[Maureen Parker]

The Commission has done the right thing by issuing a TV policy that attempts to balance broadcaster flexibility with support for Canadian programming. We believe that this will work, however there are so many elements to this new framework that it will require careful monitoring to ensure that it plays out as intended. We need timely access to annual reporting and the opportunity to review for compliance. We would also like the opportunity to have our own *in camera* discussions with you, so that we can freely discuss our side of the economics of Canadian programming without risking our members' careers. But ultimately, it's the Commission who will ensure that the 2010 TV Policy works as intended.

We would be happy to answer any questions that you might have. Thank you for your time.