Writers Guild of Canada

August 13, 2010

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

Submitted via E-Pass

Dear Mr. Morin,

Re: Broadcasting Notice of Consultation CRTC 2010-477 – Application by Rogers Broadcasting Limited ("Rogers") to amend the broadcasting licences of the CITY TV stations and to amend the broadcasting licences of the OMNI stations, both to reduce overall Canadian Content programming obligations (collectively the "Rogers Stations")

1. The Writers Guild of Canada (the WGC) is the national association representing over 2000 professional screenwriters working in English-language film, television, radio and digital media production in Canada. The WGC is actively involved in advocating for a strong and vibrant Canadian broadcasting system containing high-quality Canadian programming. The WGC wishes to **oppose** the above-mentioned Notice of Consultation and the referenced applications.

2. In these applications Rogers is requesting that the conditions of licence for various Rogers stations be amended to reduce overall Canadian content exhibition requirements to 55% of the broadcast year.

3. Rogers' argument for this requested amendment is that it would be consistent with the Broadcasting Regulatory Policy CRTC 2010-167, *A group-based approach to the licensing of private television service* which would have been implemented for September 1, 2010 but for a legal challenge.

2010 TV Policy

4. As all industry stakeholders are well aware, the Commission developed the intricate 2010 TV Policy after an extensive review of submissions and a lengthy public hearing. The policy has many integrated components which as a whole are intended to provide Canadian broadcasters with regulatory flexibility while still ensuring support for Canadian programming. The WGC was disappointed to

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have to wait to see the TV Policy implemented as it will finally reinstate an expenditure requirement on conventional broadcasters and as well as create an expenditure requirement for Programs of National Interest (i.e. drama, documentaries and award shows). However, we have been told by the Commission that certain steps need to be taken before the policy can be implemented. For example, the definitions of documentary and award shows need to be agreed upon and will be as part of Broadcasting Notice of Consultation 2010-470. Then broadcasters will provide the Commission with historical expenditure data for those categories. The WGC has requested that the historical expenditure be reviewed over the last five years to give a more accurate picture than the three year period set out in the TV Policy. Only then can the Commission set a proposed expenditure requirement which the broadcasters can use in their applications for licence renewal. Licence renewal hearings are currently scheduled for Spring 2011 with the intention of implementing the new TV Policy in new licences starting September 1, 2011.

5. So we are surprised to see Rogers asking that elements of the new TV Policy be implemented earlier. Firstly, the new TV Policy is not an ‘a la carte’ menu from which broadcasters can pick the rules that they like and leave behind the ones that they do not like. The Commission worked hard to balance elements of flexibility with regulatory requirements. The WGC supported the reduction of the overall Canadian content exhibition requirement from 60% down to 55% because in return there would finally be an expenditure requirement ensuring that Canadian broadcasters would prioritize high quality Canadian programming and specifically support Programs of National Interest and in particular drama. The expenditure requirement ensures that broadcasters will not spend the least amount possible to fulfil their Canadian Content exhibition requirement (i.e. reality shows, news, sports) while dedicating the balance of their programming budget to American programming.

6. The WGC also supported the elimination of priority programming because in its place there would be an expenditure requirement for Programs of National Interest. As 75% of Programs of National Interest will need to be independently produced, replacing the 75% of priority programming rule, the Commission is maintaining the principle enshrined in the *Broadcasting Act* that the Canadian broadcasting system include a significant contribution from the Canadian independent production sector. Eliminating priority programming without replacing it with provisions for Programs of National Interest or any other method of supporting independently produced dramas and documentaries would be a devastating blow to independent production.

7. Accordingly, Rogers’ proposal that the Rogers Stations should be entitled to reduce their Canadian Content requirements without making any Canadian content expenditure requirement cannot be characterized as a request for an early implementation of the 2010 TV Policy. It is simply a request to fill more of their program schedule with more American programming both in the day and in prime time.

8. The global recession had a very serious impact on the ad revenues of conventional broadcasters, which seemed to hit bottom in 2009. 2010 appears

to be a period of economic recovery. It would be premature of the Commission to make a decision based on the 2008-09 financial situation of the Rogers Stations when Rogers will be delivering the 2009-10 annual report to the Commission in a few months. We strongly suspect that the Commission will find that the Rogers Stations performed much better in the 2009-10 broadcast year than they did in the previous year.

9. The Commission was well aware of the existing excessive spend on foreign drama by conventional broadcasters. It called for comments on proposals to curb that excessive spend in the last few public hearings on TV Policy. The Commission decided that rather than impose a brake on foreign expenditure it would instead set a floor for Canadian program expenditure to limit broadcasters' ability to spend excessively on foreign:

   "84. The Commission notes that, although there was general agreement among parties that rising expenditures on foreign programming have significantly contributed to the current financial difficulties of English-language conventional television broadcasters, there was no general support for the imposition of a specific 1:1 ratio requirement between Canadian and non-Canadian expenditures.

   85. The Commission considers that the new CPE requirements, in conjunction with the requirement that licensees make commitments to the creation of programs of national interest, will be a more effective regulatory measure to ensure that an appropriate proportion of the financial resources of English-language television licensees be devoted to Canadian programming."[1]

10. We agree that there are other factors which could contribute to the difficulty of sustaining conventional networks, however clearly the Commission is in agreement with the WGC that excessive spending in Hollywood is a serious contributing factor. If conventional broadcasters will not curb that spending and prioritize Canadian programming as Canadian broadcasters licensed under the *Broadcasting Act* should do, then the Commission's regulatory policy will have to compel them to do so. It is therefore essential that all of the 2010 TV Policy be implemented as soon as practical and not just bits and pieces of it. This will not only be in the best interests of the Canadian broadcasting system but the Rogers Stations as well. Reducing the Canadian content programming obligations to allow Rogers to spend more on foreign programming is clearly not the solution.

<u>Conclusion</u>

11. In conclusion, for the reasons stated above the WGC feels most strongly that this application is completely inappropriate and should be denied. The issues it raises should be dealt with in the full context of a licence renewal hearing with the application of the full 2010 TV Policy. To do otherwise would be unfair to stakeholders and would seriously undermine the 2010 TV Policy.

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[1] Paragraphs 84 and 85 of the 2010 TV Policy, Broadcasting Regulatory Policy 2010-167

12. We thank you for this opportunity to provide you with our comments.

Yours very truly,

Maureen Parker
Executive Director

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