July 13, 2020 **Filed Electronically**

Mr. Claude Doucet

Secretary General

Canadian Radio-television and

 Telecommunications Commission

Ottawa, Ontario

K1A 0N2

Dear Mr. Doucet:

**Re:** **Broadcasting Notice of Consultation CRTC 2019-379-3:** **Canadian Broadcasting Corporation/ Société Radio-Canada – Licence Renewal – Additional information added to the public record**

1. The Writers Guild of Canada (WGC) is the national association representing approximately 2,400 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.
2. The WGC is pleased to provide our comments with respect to additional information added to the public record. We thank the Canadian Broadcasting Corporation/Société Radio-Canada (CBC) for providing this additional information and we thank the Commission for the opportunity to comment on it.
3. Having reviewed the additional information provided by the CBC, the WGC is of the view that, while it represents an incremental increase of total information on the public record, it does not meaningfully address the requests of the WGC or other interveners for data, nor does it directly link to the substantive issues raised in this proceeding or, indeed, by the CBC itself. As such, we feel the information does not meaningfully change any of our previous comments on this matter, and we reiterate our earlier written submission in this proceeding in this respect.
4. As we understand it, the additional information added to the public record by the CBC in this proceeding amounts to one document consisting of a single page entitled “Public Financial Summary: Aggregate Financial Summary for All CBC/Radio-Canada Services”. As described by the CBC in its covering letter, dated 12 June 2020, the information consists of “an overview of all of the Corporation's revenue and expenses, on an annual basis, covering the 5-year period of projections requested by the CRTC in the licence renewal applications; 2018-2019 to 2022-2023.”
5. Unfortunately, this information does not address what we believe are the core issues of this proceeding, and continues to reflect deficiencies in reporting that we believe are highly problematic.
6. For one thing, the additional information provided by the CBC combines data from English- and French-language markets. This fact alone reduces the utility of this data to stakeholders tremendously. The *Broadcasting Act* (the Act) recognizes that “English and French language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements”.[[1]](#footnote-1) The Act further recognizes the CBC’s role in this respect, stating that its programming should, “be in English and in French, reflecting the different needs and circumstances of each official language community…”.[[2]](#footnote-2) The Commission has consistently recognized this in its licensing decisions, including the CBC’s 2013 licence renewal, which included numerous conditions of licence and expectations that applied solely to services of one language market or the other.[[3]](#footnote-3) And this very proceeding is divided into different applications by official language. The Act recognizes the different conditions of each official language community, the Commission applies different conditions and expectations with respect to each official language service, and the WGC, which represents members in one official language community but not the other, concurs that their circumstances and needs are indeed different. Yet the CBC has combined data in its additional information for both English and French services, as expressly indicated, for example, under “Operating Expenses” for “Digital”, where CBC Gem and ICIC TOU.TV are combined. This completely eliminates any possibility for the WGC or other stakeholders to assess the realities applicable to their official-language market and comment accordingly.
7. For another thing, while the additional information provided by the CBC is financial information—i.e. revenues and expenses—this does not go directly to what the WGC sees as a core issue of this proceeding, which is a proposed regulatory model based on exhibition hours of Canadian programming. As stated in its licence renewal application, the CBC proposes, “an approach to content commitments for its English- and French-language television networks that takes into account, for the very first time, both traditional and online exhibition of audio-visual content.”[[4]](#footnote-4) More specifically, this includes, “a cross-platform goal described as the total number of exhibition hours for combined conventional television and online platforms,” and “an accompanying condition of licence setting a minimum exhibition requirement for conventional television”.[[5]](#footnote-5) This approach is directly reflected in the amendments to conditions of licence proposed by the CBC, such as the proposed reduction of its current exhibition requirement for programs of national interest (PNI) in prime time on its traditional television network, from 9 hours a week to 7 hours a week, while at the same time introducing an expectation to broadcast at least 10 hours per week of PNI on either the network or on its digital platforms.
8. The WGC has opposed this proposal, among others, along with the philosophy that underlies it. As we stated in our initial written comments in this proceeding, the WGC believes that what the CBC proposes with respect to regulation of the multiple platforms it operates, including online platforms, does not materially contribute to the fulfillment of its mandate and of the objectives of the Act. The CBC’s proposal appears to seek reductions in Canadian programming obligations for its traditional broadcasting services, the CBC television network in particular, while proposing cross-platform goals that are slightly higher than its existing obligations for traditional services alone. The nature of those obligations, however, are in the form of exhibition hours, and are generally not required to be original, first-run hours. At the same time, the CBC seeks to treat an hour’s worth of exhibition during prime time on its main television network as equivalent to an hour’s worth of content being placed online. The result is the suggestion that an hour of programming aired at 8pm on Tuesday night on the CBC television network is the same as an hour of programming—or an hour’s worth of shorter-form programming, in aggregate—placed on CBC Gem, regardless of any other factor such as production value/quality, promotion and discoverability, or target audience. The WGC disagreed that the two things are equivalent, either in theory or in practice, and the CBC did not provide data to support its view to the contrary. In particular, we argued that CBC did not provide the data on how its proposals compare to how many hours of PNI are currently on its digital platforms, so while its proposal theoretically increases the regulatory *obligation* with respect to PNI across its multiple platforms, there is no indication as to whether it would result in an increase in *actual PNI hours*, or in relation to what baseline that increase might occur. To that end, the WGC requested the following:

Given that the CBC is proposing a hybrid regulatory approach using hours of PNI on both linear television and digital for its English-language services, and not expenditures, providing *expenditure* data and forecasts is less relevant to their proposal. Moreover, as noted above, there is no historical or benchmark data provided on how many hours of PNI (or other programming for that matter) are currently available on the CBC’s “Digital Media Broadcasting” services. Accordingly, we ask the Commission to require the CBC to file historical data detailing the number of hours of “Digital Media Broadcasting” it provides, including PNI hours, and clearly explain what is included in “Digital Media Broadcasting”. This data should be broken out by language (CBC vs. Radio-Canada), total hours vs. Canadian, program category including children’s programming, original first-run vs. non-original, and audio-visual content should be reported separately from audio content.[[6]](#footnote-6)

1. The additional information now provided by the CBC does not address these issues. As such, it is our view that the CBC has still not provided this data to support its proposals.
2. The WGC believes there are further challenges with the additional information the CBC has provided. Under “Revenue”, the “Digital” section splits out revenues by source, but combines all digital platforms together, thereby giving no indication of which platforms are earning what share of those revenues. Conversely, under “Operating Expenses”, the “Digital” section (partially) splits out expenses by platform, but combines all types of expenses together. Notably, this means that all programming and non-programming expenses are combined, as well as all Canadian and non-Canadian programming expenses. As such, to the extent that expenditures on Canadian programming might provide some kind of proxy for hours of Canadian programming—and thereby speak to the CBC’s multi-platform, exhibition hours-based regulatory proposal—even this is not possible with the information provided. Not only do we not know, for example, what expenses are for the English-language CBC Gem and the French-language ICI TOU.TV, but we do not know what expenses are for Canadian programming on those platforms, for all programming on those platforms, or for other platform development and/or maintenance costs, which do not contribute to programming production costs whatsoever.
3. We still lack data from the CBC indicating the hours of, and expenditures on, Canadian programming, and Canadian PNI programming in particular, that are on its digital platforms versus on television. We still lack information showing the audiences on network television versus digital platforms, as well as average budget levels per hour by platform for each of the PNI categories. We still lack clarity on which CBC data are actuals versus projections for broadcast years that have now closed. We still request that forecasts go to the end of the five-year licence term requested by the CBC—which is now 2026, presumably, given the recent administrative renewal—as opposed to only 2023, as even the most recent CBC data does. In short, we must effectively reiterate all of our data requests as presented in our initial written comments in this proceeding.
4. Finally, to the extent that the additional information provided by the CBC allows for any inferences or conclusions with respect to the regulatory issues currently before the Commission, the WGC submits that the additional information supports the concerns that we and others have expressed about the CBC’s proposed multi-platform regulatory model. As we stated in our initial written comments in this proceeding, the CBC’s proposed regulatory approach implies that an hour broadcast on television in prime time is equivalent to an hour placed in an online catalogue, even if it’s the same hour of programming, and irrespective of the prominence of the CBC’s broadcast network in the minds of Canadians as compared to its online platform(s), the viewership to those platforms, the financial investment made in the programming, the promotion made to each, or any other factor. We disagreed with such an implication in our initial comments, and we believe this additional information gives us continued cause to do so.
5. For example, to the extent that revenues—and advertising revenues in particular—are reflective of viewership, the additional CBC information shows that such revenues for 2018-2019 were more than six-and-a-half times greater on conventional and discretionary television than on digital.[[7]](#footnote-7) This implies a significantly greater audience still resides on the traditional television platform than the digital one. Similarly, total audio-visual (television) operating expenses for that year were more than twenty-three times greater than operating expenses for CBC Gem and ICI TOU.TV, which are the digital platforms where we would expect to find most, if not all, of the CBC’s PNI that is primarily at issue for the WGC and others.[[8]](#footnote-8) Taken together, his data suggests that audiences are indeed smaller on digital platforms and the CBC is in fact making lower investments in programming for those platforms. To treat an exhibition hour on each platform as equivalent, therefore, would not be appropriate given the objectives of the Act and the CBC’s mandate, since it would make it easier for the CBC to meet its exhibition requirements with more inexpensively created content that is seen by fewer Canadians. We do not believe this should be the vision for the CBC’s next five years.
6. For all these reasons, we believe the arguments presented in the WGC’s initial written submission dated February 20, 2020 still stand. In particular, the WGC reiterates our requests for data as set out in paragraphs 49-73 in our February 20 submission.
7. We also reiterate our request that this data be provided in a timely fashion, preferably well before the scheduled public hearing date, now January 11, 2021, to allow the WGC and other stakeholders appropriate time to analyze it and prepare meaningful and substantive comments in response. We submit that we cannot be expected to provide useful and substantial commentary on data provided on short notice, such as during or after the public hearing itself, and/or with mere days with which to work. We also hope that the Commission would not inadvertently wind up endorsing a regulatory strategy by the CBC (or other broadcasters) that involves only providing full and complete relevant data at the last minute and/or only under direct compulsion by the Commission.
8. The WGC thanks the Commission for the opportunity to provide these written comments. We reiterate our request to appear at the public hearing, now rescheduled to January, 2021, and look forward to expanding upon the WGC’s written comments at that time.

Yours very truly,



Maureen Parker

Executive Director

c.c.: Council, WGC

Bev Kirshenblatt, Executive Director, Corporate and Regulatory Affairs, Canadian Broadcasting Corporation/Société Radio-Canada (regulatoryaffairs@cbc.ca)

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1. Section 3(1)(c). [↑](#footnote-ref-1)
2. Section 3(1)(m)(iv). [↑](#footnote-ref-2)
3. E.g. Appendix 3 to Broadcasting Decision CRTC 2013-263: “Additional conditions of licence and expectation for French-language conventional television (network and stations)”, “Additional conditions of licence and expectation for English-language conventional television (network and stations)”. [↑](#footnote-ref-3)
4. Licence renewal application, para. 32. [↑](#footnote-ref-4)
5. *Ibid.* [↑](#footnote-ref-5)
6. WGC written submission in this proceeding, dated February 20, 2020, para. 57. [↑](#footnote-ref-6)
7. Specifically, “TV advertising” revenues for 2018-2019 were $216,962,189, while “Advertising” for “Digital” was $32,762,726. [↑](#footnote-ref-7)
8. Specifically, “Total Audio-Visual (Television)” operating expenses for 2018-2019 were $1,007,090,601, while operating expenses for CBC Gem and ICI TOU.TV were $42,948,219. It is of course possible that spending on news and current affairs programming is included in the former but not the latter, but this simply makes the point again that the data provided by the CBC does not facilitate the kind of analysis which would go to the heart of the multi-platform regulatory proposals of the CBC. [↑](#footnote-ref-8)