



July 2, 2024

Filed Electronically

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

Dear Mr. Morin:

Re: Reply Comments on Proposed Conditions of Service Relating to Base Contributions, Broadcasting Notice of Consultation CRTC 2023-138: the Path Forward – Working towards a modernized regulatory framework regarding contributions to support Canadian and Indigenous content

1. The Writers Guild of Canada (WGC) is the national association representing approximately 2,500 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 Supports the Initial Base Contribution

2. The WGC supports the principle and substance of the initial base contribution set out in Broadcasting Regulatory Policy CRTC 2024-121 (the Policy), subject to our comments of June 14, 2024 in this proceeding, as an essential first step towards realizing the objectives of the *Broadcasting Act* and the promise of the *Online Streaming Act*.
3. The WGC opposes comments and proposals in this proceeding that would effectively annul the base contribution, and/or that essentially seek to relitigate its existence or effectiveness.

There is broad support for a monthly payment requirement

4. In our prior submissions, the WGC noted that under the language of the proposed orders imposing conditions of service and expenditure requirements for carrying on certain online undertakings, recipients of base contribution amounts may have to wait until 31 August 2025—approximately 14 months from the release of the Regulatory Policy—until they receive any money whatsoever from

online undertakings. As such, we proposed that the Commission add language to the orders requiring monthly payments beginning in September, 2024.

5. Having reviewed the other submissions to this stage of the proceeding, we see that this issue was recognized by a great many interveners representing a broad range of stakeholders. Many of these also proposed a monthly payment requirement, generally citing the need for consistency and stability in funding. Intervenors recognizing this issue include the Canadian Media Producers Association, the Directors Guild of Canada, the Canadian Association of Broadcasters, the Canada Media Fund, the Indigenous Screen Office, and the Black Screen Office.
6. Given the broad recognition of this issue across stakeholder groups, and the ready availability of a solution that already exists in the *Broadcasting Distribution Regulations*, the WGC reiterates its call for this amendment, to ensure the timely implementation of the Policy and its objectives.

There is no “double-counting” problem

7. In its comments on the proposed orders imposing conditions of service and expenditure requirements for carrying on certain online undertakings in the Policy, the Motion Picture Association-Canada (MPA-Canada) submits that the Commission’s proposed order contains a “drafting error” that, “would result in the double-counting of Canadian broadcasting revenues,” in certain circumstances.¹
8. In the WGC’s view, there is no such discernable drafting error. The MPA-Canada itself does not demonstrate precisely how revenues would be “double-counted” under the alleged error, and appears to make its own error of interpretation, in that it refers in its comments to an “online undertaking” making contributions,² when it is, in fact, an “operator” that has the obligation under the Commission’s proposed order.
9. On the contrary, the primary effect that the MPA-Canada’s amendments to the Commission’s proposed order would appear to be to undermine the group approach that the Commission has clearly stated it will take with respect to base contributions.³ The MPA-Canada’s proposed amendments would appear to exclude contributions from online undertakings within a broadcasting group below the \$25 million threshold, notwithstanding the Commission’s clear indication that it would take a group approach to contributions.
10. The WGC submits that the Commission has considered this issue and determined that, “a broadcasting ownership group approach is appropriate for the purpose of base contributions.”⁴ We submit that the group approach is indeed appropriate here, the Commission’s proposed order reflects this approach, and the Commission should reject the MPA-Canada’s proposal that would undermine this approach.

¹ MPA-Canada, Comments on Proposed orders imposing conditions of service and expenditure requirements for carrying on certain online undertakings, paras. 11-17.

² MPA-Canada, Comments on Proposed orders imposing conditions of service and expenditure requirements for carrying on certain online undertakings, paras. 13-14.

³ The Policy, paras. 43-48.

⁴ The Policy, para. 43.

Treating the “Incentive” like CPE

11. With respect to the “incentive” to “allow online undertakings to contribute up to 1.5% of their annual contributions revenues derived from audio-visual activities to the production or acquisition of certified Canadian content,”⁵ (the Incentive), some interveners have compared this to Canadian programming expenditure requirements (CPE) and then argued that the Incentive should be subject to the same flexibility provisions currently applicable to CPE, such as with respect to over- and under-expenditures.⁶
12. While the Incentive may have some similarities to CPE, it is not a CPE requirement, and the Commission has not identified it as such. The Incentive has been provided as an alternative to making a contribution to the Canada Media Fund (CMF), “to provide flexibility and to encourage online undertakings to produce Canadian content”.⁷ Unlike actual CPE, if online undertakings or their operators find that they cannot meet the requirements of the Incentive, they can—and should—simply direct the money to the CMF instead. We submit that the Commission should not engage in (re)crafting an elaborate CPE-like model for the Incentive, and a complete examination of expenditure requirements by the Commission is anticipated later in Phase 2 of the implementation of the *Online Streaming Act* already.

Closing

13. We thank the Commission for the opportunity to have participated in this process.

Yours very truly,



Neal McDougall
Assistant Executive Director, WGC

Cc: Victoria Shen, Executive Director, WGC
Council, WGC

⁵ The Policy, para. 133.

⁶ E.g. MPA-Canada, Comments on Proposed orders imposing conditions of service and expenditure requirements for carrying on certain online undertakings, paras. 19-23.

⁷ The Policy, para. 133.

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