



September 5, 2008

Mr. Robert A. Morin  
Secretary General  
CRTC  
Ottawa, ON  
K1A 0N2

Online: <http://support.crtc.gc.ca>

Dear Mr. Morin,

**Re: Broadcasting Public Notice CRTC 2008-58, Call for comments on proposed amendments to the criteria of the Certified Independent Productions Funds policy for broadcasting distribution undertakings (BPN 2008-58)**

### Introduction

1. This is the submission of a coalition of organizations, representing members who work in the Canadian independent production sector, in response to the above mentioned Public Notice. The signatory organizations of this coalition are the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA), the Directors Guild of Canada (DGC), the Documentary Organization of Canada (DOC), the National Association of Broadcast Employees and Technicians, Local 700 CEP/ Communications, Energy and Paperworkers Union of Canada (NABET) and the Writers Guild of Canada (WGC). Please see Appendix A attached hereto for a description of the signatory organizations.
2. Our members have a vital stake in Canada's cultural future. All of our members are professionals – including writers, directors, crew, performers and documentary filmmakers. . We believe passionately that Canada needs a strong Canadian presence wherever entertainment and information services are created and however these are provided to Canadians. We believe in the creativity of Canadians and in our capability to tell our own stories.
3. Members of this coalition regularly participate in CRTC public processes not only in the interests of our membership, but also for the cultural imperative of ensuring that Canadians have access to high-quality Canadian programming. We also strive to ensure that the cultural objectives of the *Broadcasting Act* are upheld. This requires

effective and meaningful policies and regulations, which has been the case since the inception of broadcasting in our country.

4. As discussed in greater detail below, there is a lack of funding in the system for high-quality, high-cost Canadian productions and, over the years, all of our organizations have strongly advocated for the continued maintenance and strengthening of support for Canadian television production. While we maintain this view, we also recognize that the broadcasting landscape is undergoing significant changes and that it would be useful to find ways in which to support new media production. This is particularly true in light of the reported demise of the Canadian New Media Fund. We continue to hold the position that new sources of revenues should be used to fund new media projects but acknowledge that the Commission may decide to amend the criteria for the certified independent production funds to permit new media funding before such time as these new sources are determined. In that case, we recommend the establishment of a two-year pilot project in which no more than 10% of annual BDU contributions to certified independent production funds could be earmarked for the support of new media projects through these funds.
5. This current proceeding comes as a result of recommendation 23 set out in the Report of the CRTC Task Force on the Canadian Television Fund (CTF) released in June 2008. Recommendation 23 proposed that the CRTC amend its policy with respect to certified independent production funds in order to provide such funds with greater flexibility to support new media projects. As stated in a letter to the Commission dated August 20, 2008, the members of this coalition are concerned that the proceeding at hand precedes the Commission's new media hearings, expected to be held early in 2009. In that letter we urged the Commission to postpone the public process initiated by BPN 2008-58 until such time as the new media hearing is complete, or, at a minimum, that the key issues raised in BPN 2008-58 be incorporated into the new media hearing.
6. On August 29 2008, the Commission released BPN 2008-58-1 which extended the deadline for comments in this proceeding to September 5, 2008. In light of this, the coalition provides the following detailed comments.

### **New Funds for New Media**

7. We appreciate that the Commission is recognizing the increased importance of new media production and is taking action to allow funding to support this area of production. We agree that there is a growing need to find ways to support high-quality Canadian new media productions.
8. However, we are concerned with the notion of allowing existing funds within the system to be directed to new media productions without an increase in the overall funding available. New funding must be found to support Canadian new media broadcasting content. Spreading already scarce resources too thinly will jeopardize both the quality and the quantity of all content available, be it programming for traditional media, or new media broadcasting content.
9. Canadian programming in general and Canadian drama programming in particular is suffering from a decline in spending by Canadian broadcasters. As the Commission is well aware, having commented on this fact in their 2007 OTA Policy decision, spending by English language conventional Canadian broadcasters on Canadian

drama has dropped from 4% of revenues in 2001 to 2.3% of revenues in 2006. The ratio of spending on English language foreign drama vs. English language Canadian drama has gone from 6 to 1 in 2000 to 12.6 to 1 in 2007. Meanwhile, government funding of the CTF has remained stagnant and the international marketplace has diminished as international broadcasters focus on licensing their own domestic programming.

10. We, therefore, urge the Commission to canvass options for ensuring that new and/or increased funding be made available in the system to support the creation of new media audiovisual content. Such options could include the imposition of a levy on Internet Service Providers, and an increase in the contribution of broadcasting distribution undertakings (BDUs) to Canadian programming from 5% to at least 6%, a portion of which could be directed to new media content.

### **New Media Pilot Program & New Criteria for Independent Funds**

11. That said, while we expect the issue of additional sources of revenue to be a significant part of the projected CRTC new media hearings, we understand that the Commission may provide the certified independent production funds with a degree of flexibility in advance of these hearings. Should the Commission decide to amend the criteria of these funds to permit new media funding without the availability of additional revenues, we would recommend the implementation of a two-year pilot program to that effect. The implementation of such a program will allow for a review of the pilot program in light of any revised new media policy the Commission may release next year. We also strongly believe that the use of monies by the certified independent production funds for new media should be capped at no more than 10% of their available funding. This would ensure that the majority of funding to the certified production funds goes to traditional television production. It would also provide a test case to analyze the demand and effectiveness of support for Canadian new media production through independent production funds.
12. It is also our strong view that any monies used by the funds for new media be used for the development and creation of audiovisual content. These monies should not be used for new media 'bricks and mortar' such as web site creation and design.
13. The Commission has suggested that only new media productions which benefit the regulated broadcast sector should be supported by the independent production funds. We agree, but suggest that rather than a licensed broadcaster providing 'written proof of support', the more specific requirement should be that in the case of production financing, the licensed broadcaster be required to provide a licence agreement for the new media content. If the broadcaster has licensed the new media project then it will of necessity support the Canadian broadcasting system.
14. Further, we think that it is important to maintain the requirement that these funds are only used to fund Canadian productions. As there currently is no new media Canadian content certification system, we recommend that the funds be limited to funding productions where 75% of expenditures are Canadian until such time as a more detailed and acceptable certification system is created.

## The importance of development funding

15. This coalition also supports amending the Commission's policy to allow certified independent production funds to support development of television programs. As various members of this coalition have stated to the Commission on numerous occasions, development is a key step in the creation of engaging, high-quality, successful television programming. More development leads to better television. In Canada programs suffer from insufficient development because there are not enough sources of development financing. Broadcasters, the CTF and the small COGECO Program Development Fund are the only sources of development financing for television<sup>1</sup>. A development phase for a television series should result in a bible, three to five finished scripts and story outlines for the season. Increasingly, however, Canadian series are going to production without that depth of development and are required to "wing it" within the pressure cooker of the production process.
16. New media production can similarly benefit from development but has even fewer sources of development financing. The Canadian New Media Fund has limited development funding and is expiring in March 2009. The Bell Broadcast and New Media Fund has the interest on an endowment which it can use for a small amount of development financing. If there are additional revenues which can be directed to independent funds for new media production then those funds should have the ability to fund new media development as well.

## Conclusion

17. In light of the above, we respectfully submit that the Commission should canvass new and or increased funding options to support the creation of new media audiovisual content. We also recommend that if the Commission decides to give greater flexibility to the certified independent production funds in order to support new media projects, this should be done within a two-year pilot program, and there should be a cap of 10% on the amount of funds that may be used for the creation of new media content. It is also our strong view that any funds used for new media by the certified independent production funds be used for the development and creation audiovisual Canadian content only.
18. As for the criteria set out in paragraph 7 of BPN 2008-58, we recommend that the final two bullet points be revised as follows:
  - Television productions receiving funding meet the eight points out of ten for Canadian content certification as set out in Public Notice 1996-51 and new media productions receiving funding spend at least 75% of their production budget on Canadian costs until such time as a more detailed and acceptable new media Canadian content certification system may be adopted;
  - Television and new media productions receiving production funding have obtained either a broadcast licence or a new media licence from a licensed broadcasting undertaking.

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<sup>1</sup>The COGECO Program Development Fund, and the development envelope of the Bell Broadcast and New Media Fund are both funded by endowments created by benefits transactions and are not funded by BDU contributions.

19. We also recommend the addition of the following to the list of criteria that must be met:

- Television and new media productions receiving development funding have obtained a letter of commitment from a licensed broadcasting undertaking agreeing to share in the costs of development of the television or new media production respectively.

20. We thank the Commission for the opportunity to provide you with our comments.

Sincerely,



Stephen Waddell  
National Executive Director  
ACTRA



Brian Anthony  
National Executive  
Director and CEO  
DGC



Lisa Fitzgibbons  
Interim Executive Director  
DOC



David Hardy  
Business Agent  
NABET



Maureen Parker  
Executive Director  
WGC

## Appendix A

### **About the signatory organizations**

ACTRA and its predecessor organizations have represented the interests of professional performers working in the English-language media in every region of Canada for more than 60 years. ACTRA bargains collectively on behalf of 21,000 performers. In addition, ACTRA represents the interests of thousands of singers and musicians through the work of the ACTRA Performers' Rights Society, which collects and distributes royalties from the public performance of musical recordings.

The WGC is the national association representing more than 1,900 screenwriters working in English-language film, television, radio, and digital media production in Canada. The WGC is actively involved in maintaining a strong and vibrant Canadian broadcasting system firmly supported by a healthy independent production community.

DGC is a national labour organization that represents key creative and logistical personnel in the film and television industries. Its membership includes over 3,800 individuals drawn from 47 different craft and occupational categories covering all areas of direction, production, editing, and design of film and television programming in Canada.

THE DOCUMENTARY ORGANIZATION OF CANADA | l'association des DOCUMENTARISTES DU CANADA (DOC) is a national non-profit bilingual professional arts association of independent documentary producers, directors, craftspeople and service providers. It was founded in 1983 and now has over 800 members working in both official languages in all provinces and territories in Canada. With the addition this year of a Chapter in Alberta, DOC is now organized into eight Local Chapters in British-Columbia, Toronto, Ottawa- Gatineau, Québec, Atlantic, Newfoundland and Labrador, Alberta and Winnipeg.

NABET 700 CEP (The National Association of Broadcast Employees and Technicians) is a Chartered trade union and local of the Communications, Energy and Paperworkers Union of Canada. Since 1970, NABET 700 CEP has represented professional craftspeople, artists and technicians working in the motion picture, television, and more recently digital media sectors in the province of Ontario. Its membership stands at more than one thousand members.

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