



Renewing Canadian television: a view from people who make TV

**Canadian Media Guild submission
re: Broadcasting Notice CRTC 2006-5**

September 27, 2006

www.cmg.ca

Who we are:

The Canadian Media Guild represents 6,000 media employees in Canada. We work on the front lines of public and private broadcast media at CBC, TVOntario, Sun TV, S-Vox, Alliance Atlantis Communications, and the Aboriginal Peoples Television Network. Our members are also Canadians and viewers of Canadian TV. We have a keen interest in creating a strong national broadcasting system that promotes and supports TV programming that serves the public interests of Canadians and reflects their diversity.

The Canadian Media Guild would like to appear before the CRTC:

The CMG would like to appear at the public hearings to answer questions and to explain more fully why a new classification framework, as well as effective rules and additional funding, are necessary to ensure broadcasters produce, commission and air more high-quality Canadian programming. As makers of television at a variety of broadcasters, we have a comprehensive view of the country's TV system.

Summary of CMG's submission

The Canadian Media Guild is urging the CRTC to adopt a new framework for the TV system. The new approach would eliminate the distinction between OTA licensees and specialty licensees, allowing CRTC policy to examine and address all issues related to the overall TV system comprehensively. In addition, we propose more effective rules to ensure that quality Canadian content – including news and current affairs programming – is available on TV when Canadians are watching, the creation of a Canadian Broadcaster Program Fund available to all TV broadcasters using the proceeds of a nominal increase to basic cable and satellite fees, and the recognition of the fundamental role played by public broadcasters in the TV system.

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Introduction: is English-language TV at risk in Canada?

1. Our broadcast system needs a new regulatory framework, with effective rules and additional funding, to provide more original Canadian programming in a variety of genres, including quality local news and drama. Without a new framework to foster more and better Canadian TV shows, we believe the English-language TV system, in particular, will fail to attract and serve Canadians. The expectations for the system, enshrined in the *Canadian Broadcasting Act 1991*, include the provision of a “wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity.”
2. Two key factors are putting the system at risk:
 - the lack of rules and funding to ensure that private Canadian broadcasters air quality Canadian programs, including news, when most Canadians are watching
 - the decline in funding in real dollars for public broadcasters in Canada.
3. **The Canadian Media Guild therefore recommends the following four elements be included in the CRTC TV policy:**
 - **A new framework for classifying broadcasters within the Canadian TV system that eliminates the increasingly outmoded distinction between over-the-air (OTA) licensees and specialty broadcasters.**
 - **The creation of a Canadian Broadcaster Program Fund, funded by cable and satellite subscribers through a nominal increase in the price of the basic package, to support the production of original news and other priority programming by broadcasters, including OTA licensees, for airing in prime time. A minimum of 60% of the funds would be reserved for public broadcasters to produce news, current affairs, documentary, kids and youth programming for broadcast *without commercials*.**
 - **More effective rules governing expenditure on and exhibition of Canadian content by all broadcasters, including a return to required news/current affairs programming.**
 - **The recognition that public broadcasters, including national, provincial/educational, and those with special program orientation, play a fundamental role in Canada’s TV broadcast system.**

A new framework for classifying broadcasters

4. The historical rationale for distinguishing between the long-standing OTA broadcasters and the relative newcomer specialty broadcasters is quickly eroding. For one thing, the vast majority of Canadians now receive TV via cable or direct-to-home providers, rendering distinctions based on transmission technology irrelevant. Further, OTA licensees have raised the need to create a more even playing field for broadcasters on the financial side, especially because new technologies now allow viewers to avoid traditional commercial breaks. Some argue for access to cable and satellite subscriber fees to mitigate the loss of commercial revenue. Finally, TV content is more important than ever given the number of video options available to viewers. In fact, TV programming drives much of the video content now available on new media platforms, such as the internet, video-on-demand and mobile devices.
5. The *Broadcasting Act* is aimed at ensuring that TV content broadcast by Canadian licensees be predominantly Canadian. We need a television policy for tomorrow that examines and regulates the TV system as a whole in order to make sure that public policy goals are achievable ... and achieved.
6. Therefore, we propose a new classification framework that takes into account content, objectives and financing models of broadcasters across the entire TV system, for example:
 7. **Public broadcasters**
 - CBC/Radio-Canada “main networks”
 - CBC/Radio-Canada “specialty” (e.g. Newsworld, RDI)
 - provincial broadcasters (e.g. TVOntario, Télé-Québec)
 - non-profit broadcasters (e.g. Aboriginal Peoples Television Network)
 8. **Private broadcasters**
 - national, multi-purpose broadcasters (e.g. CTV, TVA, CanWest Global)
 - local multi-purpose broadcasters (e.g. Sun TV)
 - specialty broadcasters (e.g. Bravo, HGTV, Réseau des sports)
9. We note that our proposed framework does not eliminate the distinction between *broadcasters* and *telecommunications providers*, even though the latter have begun supplying audio-visual services in an unregulated market. It is important to remember that TV has long had to compete with other leisure-time activities – including other unregulated audio-visual activities, such as films and video games –

but has continued to this day to be a popular and profitable medium.¹ Our proposed framework would not only allow the successful aspects of the system to live on, it would also make sure that the system delivered the home-grown content that Canadians expect, deserve and want to watch.

Creating the Canadian Broadcaster Program Fund

10. With the elimination of the distinction between OTA and subscriber-based systems for TV, it no longer makes sense to deny certain broadcasters access to cable and satellite fees.
11. Current OTA licensees have begun to realize that the simulcast formula, where they license American shows for broadcast in Canada and substitute Canadian ads for which they earn the revenue, may not represent, as the old adage would have it, “a license to print money” for much longer. With producers, distributors and licensees of American programming now cutting deals directly with digital and on-demand services, conventional Canadian broadcasters who own very little of what they air are wise to be concerned about the day they may be by-passed altogether. In the meantime, they are looking for new ways to make money; while increasing ad messages during broadcasts may be one way, getting access to subscriber fees is another.
12. We, too, believe that subscriber fees represent an important potential source of revenue for current OTA licensees. However, we suggest that any fees generated through subscribers be used exclusively to finance an ongoing public policy objective, such as the boosting of quality Canadian content on Canadian television.
13. Therefore, we propose the creation of a new Canadian Broadcaster Program Fund to be financed by the imposition of a nominal new monthly basic fee for cable and satellite subscribers. All existing OTA licensees would continue to have mandatory carriage on basic cable. The fund would support the increase of Canadian programming on television, including commercial-free programming that could serve as a counterweight within the system to the increase in traditional and emerging forms of advertising content. It would also support promotion for the new programming.

¹ The CBC provided data on increased television viewing among Canadians in its September 1, 2006 submission to the CRTC regarding the future environment facing the Canadian broadcasting system. See also: Nordicity Group Ltd., *The future of television in Canada*, June 6, 2006, paper presented at the Banff World Television Festival.

14. **How the Canadian Broadcaster Program Fund could work:**
15. **The money:** with more than 10 million cable and satellite subscribers in Canada, a \$1 to \$2 per month fee would generate between \$120 million and \$240 million per year.
16. **The split:** Approximately 1-2% of the annual proceeds could be allocated to the CRTC for administration of the Fund, or to create a body to administer the Fund. The bulk of the funds could be divided into English- and French-language parts, according to the proportion of Canadian viewers in each system. Sixty percent of each pot could be designated for public broadcasters to run **commercial-free** programming and the remaining 40% of each pot could be designated for private broadcasters. It is important to note that the proposed share for private broadcasters is lower than for public broadcasters since the privates would be free to raise commercial revenue for the programming supported by the fund.
17. **The criteria:** Public broadcasters could be expected to produce and broadcast commercial-free news/current affairs, long-form documentary and kids/youth programming. Private broadcasters could be expected to fulfill a particular, **ongoing** public policy goal, such as a quantity of local news and Canadian programming, including drama, during prime time that is in addition to their licence requirements.
18. Note: We don't believe that the implementation of HD-TV is an appropriate use of funds generated by subscription fees. Upgrading to high-definition television is a capital, or one-time, expense borne by private and public broadcasters, whereas cable and satellite fees are an ongoing stream of revenue. Such fees should therefore finance an ongoing public policy goal. Private broadcasters must take on the cost of upgrading as a **one-time** cost of doing business in the Canadian system; public broadcasters should be given a one-time grant from their respective governments specifically for this purpose.
19. **The bidding process:** To minimize the administrative burden, we propose a one-time bidding process to cover a six-year period: each broadcaster would submit a bid for a portion of the Fund over six years, outlining their annual program plans. Alternatively, broadcasters could apply for a portion of the Fund in their licence (renewal) application. Perhaps the question of the most effective and efficient process could be put to broadcasters when they appear before the Commission during the public hearings. In any case, once the bids were in, the CRTC or Fund administrator would examine each proposal in light of both policy goals and feasibility and distribute the funds fairly.
20. **Compliance:** Each broadcaster who has received money from the Fund would be expected to report back on the use of the funds every six months. Money would be docked from the next payment to broadcasters who didn't live up to their commitments. The default money would be available for additional programming by

broadcasters who remain in compliance via a supplementary bidding process within the six-year period.

21. **Review:** The Fund should be reviewed after three years to assess whether it is meeting the goals of providing more quality programming in the priority areas.

More effective rules to ensure Canadian programming

22. To increase the amount of Canadian programming on television, more effective regulation is needed. Simply adopting the deregulation trend in the telecommunications, new media and mobile phone sectors will not solve the problem. In fact, such a move would effectively deny Canadian programming to Canadian audiences on a variety of platforms. Broadcasters are among the most important and reliable generators of content on the internet. More effective content rules in the broadcast sector will therefore have a beneficial impact on the availability of Canadian material on high-traffic internet sites.
23. All Canadian broadcasters should be subject to straightforward exhibition and expenditure requirements for particular types of Canadian content at particular times in the broadcast week.
24. For example, multi-purpose private broadcasters could be expected to broadcast a certain amount of local news each evening and a certain amount of scripted Canadian drama during prime time. Specialty private broadcasters would continue to have exhibition and expenditure requirements appropriate to their program focus. For their part, public broadcasters should be required to meet higher standards than their private counterparts in the delivery of local, national and international news, current affairs, long-form documentary, original drama, entertainment, kids and youth programming.
25. Above and beyond any changes to the classification framework, rules and funding, the CMG believes the CRTC needs to examine ways of improving enforcement mechanisms to ensure that broadcast licensees comply with the requirements in their licences.
26. Our proposal for more effective content regulation includes local news in the list of programming that private and public multi-purpose broadcasters should be expected to provide. It is there because we have identified a growing and troubling trend to abandon local newscasts by several broadcasters, denying Canadians living in a number of urban regions a diverse offering of quality local TV news. We believe

CRTC policy should require conventional broadcasters to commit to news gathering and coverage, considering television continues to be the most popular source of news for Canadians.² In addition, **CRTC licences should require private broadcasters to maintain total editorial independence vis-à-vis other news media holdings in their ownership group.**

27. In 2000, CBC-TV reduced local news programming by approximately one hour per day in most cities, shortening the supper-hour local newscast to 30 minutes and eliminating late-night local news altogether. More recently, on the day that the purchase of CHUM by Bell Globemedia was announced, CHUM eliminated local newscasts in 4 cities: Winnipeg, Calgary, Edmonton and Vancouver.
28. And if programs aren't being eliminated altogether, sometimes they are simply stripped of the resources to do original news gathering and current affairs production, the kinds of resources that help attract viewers and are more likely to have an impact on public debates.
29. For example, Sun TV, a recent entrant in the Toronto market, has eliminated its electronic newsgathering capabilities, shifting to a studio format that relies heavily on columnists from the company's Sun newspaper chain for its nightly, low-budget current affairs show *Canoe Live*. And this summer, TVO cancelled its popular nightly current affairs program, *Studio 2*, in favour of a new program, *The Agenda*, with the stated intention of reducing production costs. That means more studio-based panel discussions and fewer news documentaries and remote reports.
30. In the past, news programs were considered a relatively low-cost way of meeting Canadian content requirements, and the 1999 TV policy eliminated requirements for minimum amounts of local news. Certainly news shows can be cheap and cheerful, especially when they rely on the use of clips from syndicated news services, or if the production is based entirely in a studio. However, local news shows that draw on electronic news gathering and have the capacity for original investigative reports seem to be increasingly expendable, as can be seen with the CHUM, Sun TV and TVOntario examples above. The remaining two or three broadcasters in a given market who do provide local news shows not only have easier access to ad revenue, they also have less pressure to maintain quality standards with the loss of serious competition from other private broadcasters and, notably, from the CBC.
31. The recent report of the Standing Senate Committee on Transport and Communications expressed concern about the lack of CRTC rules governing news, resulting in a decrease in news programming. While the Senate report indicated that the decrease is particularly noticeable in radio, the recent developments in TV news

² Standing Senate Committee on Transport and Communications, *Final Report on the Canadian News Media*, Volume 1, June 2006.

noted above should be cause for concern. We support the Senate committee's recommendation calling for an amendment to the *Broadcasting Act* to provide that the system give "a high priority to news and information programming."³

32. The internet cannot be used as an excuse to eliminate the requirement for quality news coverage on TV. Surfing the Web may have been a great way to find out about what was happening in Lebanon this past summer, from every conceivable angle. However, how much could you learn about the New Brunswick election that was not provided by an existing broadcaster or print news organization? The fact remains that **the only reliable sources of a broad range of local and national Canadian news on the internet are the existing, established news organizations, including broadcasters such as CBC, Radio-Canada, CTV and CanWest Global.**

The fundamental role of public television

33. One should not assume that, because of media abundance, public broadcasting is irrelevant and should fade quietly into the night. As McGill professor Marc Raboy has argued, ensuring that our media system serves the public good is as important as ever, as is public broadcasting within that system.⁴
34. While their mandates and funding formulas vary, successful public broadcasters have generally pursued the principle of delivering information and entertainment to their viewers as citizens, instead of simply focusing on delivering their viewers to advertisers.
35. Public broadcasters with stable, adequate funding and creative and editorial independence can experiment and innovate, producing programming that is often later emulated by commercial broadcasters. Even in areas such as reality television, commercial networks have taken some of their cues from public broadcasters. The popular *Survivor* series is based on a concept that premiered on Sweden's public broadcaster in 1997, *Expedition: Robinson*. The granddaddy of all modern reality programming is probably *An American Family*, which ran on U.S. PBS stations in the early 1970s. *Changing Rooms*, which first aired on the BBC in 1996, brought the do-it-yourself world to television as a reality genre.
36. Public broadcasters such as CBC have also been among the most successful at introducing and programming new media platforms, such as internet streaming and podcasts.

³ Standing Senate Committee on Transport and Communications, *Final Report on the Canadian News Media*, Volume 1, June 2006, p. 29.

⁴ Raboy, Marc, "Making Media. Creating the Conditions for Communication in the Public Good," *Spry Memorial Lecture*, November 2005.

37. In Canada, the *Broadcasting Act 1991* underlines the distinct role that the nation's public and educational broadcasters play. It sets out a mandate for CBC/Radio-Canada and affirms that "educational programming, particularly where provided through the facilities of an independent educational authority, is an integral part of the Canadian broadcasting system." Public broadcasters exist to provide programming that is fundamentally in the public interest.
38. CBC-TV, Radio-Canada and TVOntario have parlayed their role into rock-solid reputations for credible and reliable news reporting, as well as current affairs, children's and educational shows. They also continue to play an important role in providing Canadian programming during prime time.
39. However, long-term underfunding of national and provincial public broadcasters in Canada has steadily eroded their capacity to fulfill their mandates. Budget reductions at TVOntario and Télé-Québec have reduced their capacity to produce original programming.
40. According to former CBC President Tony Manera, the national public broadcaster receives about half the amount of public funding per capita that it received 20 years ago.⁵ And in constant dollar terms, the CBC now receives about \$400 million – or one-third – less from Parliament than it did in 1990. The impact on CBC-TV has been a decline, notably in terms of programming budget, local news coverage, and viewers. However, it remains the only national conventional, multi-purpose English-language network committed to a Canadian schedule, particularly in the important prime-time period.
41. And even in an era of restraint, CBC-TV has managed to produce exciting and innovative TV in recent years. ZeD TV invited viewers to send in video clips for broadcast, providing a national outlet for emerging video producers and artists in Canada. It also had a strong internet presence. Street Cents provided young viewers with consumer smarts and also launched the careers of a series of young broadcasters. Unfortunately, both ZeD TV and Street Cents were cancelled this year.
42. **It is imperative that CRTC TV policy recognize the fundamental importance of public broadcasting, including CBC/Radio-Canada and provincially-owned broadcasters, in Canada's broadcast system.**
43. But in ensuring a future role for the national public broadcaster, it is clear that we need to think beyond the CBC-TV of today. CBC-TV now relies increasingly on

⁵ Manera, Tony, "How to Save CBC," *Ottawa Citizen*, September 25, 2006.

commercial revenue to fund its services⁶ and is focusing great effort on increasing ratings and ad revenue.

44. Beyond the obvious and troubling shifts in programming priorities dictated by the quest for ad revenue, **CBC-TV is in a paradoxical, if not impossible, situation as it tries to finance quality Canadian programming through commercial revenue.** It is an economic reality that high-quality Canadian shows don't pay for themselves. They are more expensive to make than buying the broadcast rights for their American counterparts and they don't draw the same commercial revenue⁷.
45. For that reason, we believe CBC-TV's current strategy is untenable and will not deliver the full range of quality programming that serves the public interest. Even if the strategy is successful according to its own logic, it will mean more advertising content on public television⁸ and less of an alternative to the plethora of private stations on the dial.
46. The unfortunate events of the past summer, when CBC attempted to simulcast a doomed reality show with American private network ABC, illustrate the absurdity of the situation. CBC-TV proved it would do almost anything – including airing an American show and pre-empting its flagship national news program – to pick up rating points and advertising dollars.
47. We believe the incident needs to be viewed as a cry for help, not only for CBC-TV but for the notion of the primacy of Canadian programming on the English-language television system in Canada. It casts light on two troubling trends in the Canadian system: a turning away from certain kinds of quality⁹ Canadian programs, such as drama, on conventional TV in prime time¹⁰ and the treatment of TV news coverage as expendable.
48. In recognizing the fundamental role that public broadcasters play in the Canadian TV system, funding could be better targeted to ensure that Canadians have access to quality home-grown programming that serves the public interest.

⁶ English TV at CBC currently raises \$210 million of its \$580 million annual budget through advertising revenue.

⁷ Canadian Association of Broadcasters, *Canadian Private Television: a success story*, June 16, 2005

⁸ TVOntario has also recently speculated about introducing advertiser messages as a way of increasing revenue.

⁹ A note on the concept of quality: Quality programming cannot be defined or regulated. You know it when you see it. You also know it when you're not seeing it, and you tend to turn to something else. If the Canadian broadcasting system cannot have rules based on objective assessments of quality, it can certainly help create the conditions for the creation of quality Canadian productions, such as a vibrant indigenous production sector and plenty of airtime for Canadian programs.

¹⁰ As the CRTC has noted, in the four years following 1998/1999, the amount of Canadian drama broadcast by CBC-TV, CTV and Global fell by 68 hours annually.

Answers to selected questions posed in Broadcasting Notice CRTC 2006-5:

Objective A

Question a) What are the most effective regulatory mechanisms to ensure an appropriate contribution to the production, acquisition and broadcast of Canadian programs?

49. The CRTC should continue to require of all broadcasters, as a condition of license, a minimum amount of Canadian content. The current OTA licensees should have requirements for exhibition of and expenditure on Canadian programs, similar to the regulatory framework in place prior to 1999. Specific rules should be set for particular times of day and for particular program categories.
50. EXAMPLE: Current OTA licensees could be expected to air at least 60 minutes of news programming between the hours of 6pm and midnight, six days per week. Of those 60 minutes, 30 minutes should be coverage of local news.
51. EXAMPLE: Current OTA licensees could be expected to air a minimum of 5 hours of Canadian drama or long-form documentary between the hours of 7pm and 11pm, from Monday to Friday.
52. EXAMPLE: Current OTA licensees could be expected to spend a minimum amount of their overall annual program budget on programs produced in Canada. These programs can be provided by independent producers or created by the broadcasters themselves.
53. Once the rules are in place, the CRTC needs to be in a position to ensure compliance with licence requirements.

Question b) Ensuring a significant contribution from the Canadian independent production sector:

54. Stronger rules for spending on and airing Canadian programs, especially drama and long-form documentaries (see above) will enhance the role of the Canadian independent production sector.

Questions c) and d) Should OTA licensees be subject to an expenditure requirement and what should it be based on (revenues, program spending, other)?

55. OTA licensees should be required to devote a minimum of their programming budget in a given broadcast year to the purchase or production of Canadian programs.

Objective B

Question c) subscriber fee for the carriage of certain OTA television signals by BDUs?

56. We support the extension of cable fees to OTA licensees, as long as two conditions are in place:
- Broadcasting Distribution Undertakings (BDUs) – cable and satellite providers – must be required to carry current OTA licensees in each market they serve
 - They meet specific programming targets (see page 4).

Question e) and f) criteria for determining a subscription fee for OTA services and calculating the fee:

57. We propose a nominal increase to the basic cable/satellite service fee of \$1 to \$2 per month per subscriber to finance a Canadian Broadcaster Programming Fund. Broadcasters would have to bid for a portion of the fund based on surpassing the Canadian content requirements in their licences.

Objective C

Questions a) to e) regarding the implementation of HD-TV:

58. We acknowledge that implementation of HD-TV is important for the Canadian TV system. However, we believe that this – or the next technological challenge – should not be a reason to ignore public policy goals related to TV content.
59. We propose that public and educational broadcasters be provided with dedicated government funds to upgrade to HD transmission and to maintain analog OTA signals in communities where the OTA signal has not been upgraded to HD, since OTA service to remote communities represents an important piece of Canada's public infrastructure.
60. We believe that cable/satellite subscriber fees should not be dedicated to upgrading to HD-TV.

Conclusion

61. The next round of broadcast licence renewals are a time for decisive action by the CRTC in order to ensure the creation, exhibition and viewing of quality Canadian programming in a variety of genres.
62. It is time to rethink the framework by which broadcasters are classified. That means looking at TV broadcasters as a comprehensive system, with each part playing an important role in delivering high-quality Canadian content. That means rethinking the

distribution of resources within the system, allowing the current OTA licensees access for the first time to revenues generated from cable and satellite subscribers. That means imposing enforceable rules on exhibition of and expenditure on Canadian programming by companies and organizations seeking the privilege of a broadcast licence.

63. It also means moving away from the ambiguity about where public broadcasters fit within the TV system. The public notice for the examination of CRTC TV policy is not clear about the role of public broadcasters; but there is no question that public broadcasters are fundamental when it comes to providing quality Canadian news and entertainment programming to Canadians.
64. **End of document**