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April 30, 2010

Mr. Robert Morin  
Secretary General  
Canadian Radio-television and  
Telecommunications Commission  
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Dear Mr. Morin:

**Re: Broadcasting Notice of Consultation CRTC 2010-97 – Call for comments on the reporting requirements for new media broadcasting undertakings (the "Notice")**

### Introduction

1. These are the comments of the Directors Guild of Canada (the "DGC") concerning the above referenced notice. The DGC is pleased to provide these comments on reporting requirements for new media broadcasting undertakings.
2. The Directors Guild of Canada is a national labour organization that represents key creative and logistical personnel in the film, television and digital media industries. Its membership includes over 3,800 individuals drawn from 47 different occupational categories covering all areas of direction; production; editing; and design of film, television and digital media production in Canada.
3. The DGC agrees with the Commission's view expressed in the Notice regarding the importance of monitoring Canadian new media broadcasting content. As audiences shift between traditional and new media platforms, it is vital for the Commission and industry stakeholders to be able to analyze how all broadcasting undertakings are contributing to the achievement of the objectives of the *Broadcasting Act* (the "Act").
4. The DGC supports the Commission's intention to focus on undertakings involved in the transmission of professionally produced content and to leave those undertakings solely involved in the transmission of user-generated content free of any reporting requirements. It is the former with which we are the most concerned with respect to the objectives of the

Act. The DGC also notes that our comments herein are related to audiovisual new media broadcasting content and are not intended to apply to strictly audio content.

### The Commission's Questions

**Q1. What information should the Commission collect to better understand the new media broadcasting industry in Canada? What are the appropriate metrics for measuring such information?**

5. The type of information necessary for the Commission to monitor and better understand this industry can be classified under the broad headings given in the preamble to this question in the Notice:

- Availability – what new media broadcast content is offered and how;
- Consumption – what are Canadians consuming in the new media environment; and
- Financial data – what are the revenues and expenses associated with new media broadcasting.

6. The starting point to understanding new media broadcasting in Canada is to know what is available to Canadians and what are they consuming. These two initial bullets are dealt with below in response to questions 2-4.

7. With respect to financial data, the DGC recommends the Commission require new media broadcasting undertakings to provide information on how costs and revenues are allocated, which is particularly important in regards to affiliated undertakings. As we move into a new era of broadcast regulation by corporate group, the opportunities and incentives to game the system through the misallocation of costs and revenues between the regulated and unregulated sectors of a corporate group are numerous.

8. And given that the new expenditure requirements to be imposed in 2011 are based on a percentage of total revenues, the loading up revenues on the exempt new media platforms side and costs in the regulated sector may lead to overall less Canadian production traditional television platforms. This would certainly not be in keeping with the objectives of the Act.

**Q2. What are the most appropriate metrics for monitoring the availability of new media broadcasting content? In particular, address the appropriateness of using the following metrics for monitoring availability of new media content:**

- the number of audio and audio-visual programs offered by a new media broadcasting undertaking in the past year; and
- the total hours of new media broadcasting content offered by a new media broadcasting undertaking in the past year.

9. The diverse nature of new media broadcasting content dictates that both metrics will need to be used to provide a clear picture of what is available. While total hours is a highly effective metric for monitoring availability of content with fixed time scales (such as traditional 30 or 60 minute television programs), it is a less effective system to track other types of new media content which may widely vary in length or in which the actual length of the content may be determined by the user's interaction.
10. This open-ended content, such as interactive storytelling or games which may fuse different types of content (text, audio or audiovisual), may be ill-served by a metric focusing solely on hours. While there will certainly be ways to estimate the total hours of broadcast material in this content, this only adds an extra layer to the process making it more onerous on those undertakings tasked to make these reports and may not accurately reflect the intended user experience.
11. The DGC, therefore, recommends the Commission make use of both metrics proposed in the Notice to monitor the availability of new media broadcasting content. Where possible, the Commission could seek both total hours and total number of titles, or categorize different types of content to be monitored by each metric.

**Q3. What are the most relevant and feasible metrics for measuring the availability of Canadian content in new media broadcasting? In particular, address the appropriateness of using the percentage of Canadian content, either in terms of total number of hours or total number of programs, offered on new media platforms as a possible metric for monitoring availability of Canadian new media broadcasting content.**

12. For starters, the Commission will need to choose a standard for determining what is Canadian new media broadcasting content. Traditional television content on new media platforms is considered Canadian by virtue of a CAVCO certification and CRTC CanCon designation. There is currently no equivalent standard for defining original new media content as Canadian.
13. The DGC recommends the Commission look at the definitions applied by agencies which fund original new media content, such as the CMF or the Bell Fund, and decide on a standard to use for the classification of new media content as Canadian. In our view, any such definition should include the requirement that at least 75% of the costs of production be spent in Canada and that there are guarantees regarding the use of Canadian creative talent.
14. With respect to the most relevant and feasible metrics for measuring the availability of Canadian content, using the percentage of Canadian content in terms of total hours and number of titles available, consistent with our response in Question 2, is appropriate and should not present an unreasonable burden to the reporting parties.

**Q4.** To understand whether broadcasting in the new media environment is serving a comprehensive range of interests and tastes, consistent with the broadcasting policy set out in the Act, to what extent is it appropriate to categorize content based on the following five characteristics for the purposes of reporting? What are the most appropriate metrics for measuring these characteristics?

- type of programming;
- origin;
- genre;
- accessibility; and
- language of content.

15. The DGC feels it is appropriate for the Commission to require content to be categorized based on all of the above characteristics in the reporting from new media broadcasting undertakings.

**Q5.** Should confidentiality be extended to information regarding any of the data which parties propose the Commission collect in Questions 1 through 4 above? If so, to what extent should such confidentiality be extended?

16. The DGC believes the Commission should make the reporting as transparent as possible. The Commission states in the Notice that the collection of this information is to allow for the examination of whether new media broadcasting content is addressing the objectives of the Act. In order to do so, industry stakeholders need as much data as possible to effectively contribute to this discussion.

17. We have seen clearly the difficulties concerned parties have had to adequately address this question with respect to traditional television broadcasters due to a lack of information on the public record. The DGC urges the Commission to do all it can to ensure this is not the case for new media broadcasting undertakings.

18. Should the Commission seek to protect individual new media broadcasting undertakings and provide only aggregated data, the DGC believes it would be consistent with the Commission's approach in *Broadcasting Regulatory Policy 2009-560* to require new media broadcasting undertakings which are part of a larger corporate group to file aggregated data by their corporate group.

**Q6.** Considering the dynamic nature of the new media environment, what is the appropriate frequency for reporting pursuant to the New Media Exemption Order? In particular, address the appropriateness of annual reporting?

19. Considering the dynamic nature of the new media environment, the DGC is inclined to recommend semi-annual reporting in order to keep track of the rapid changes which occur on new media platforms. Given the possible burden on new media broadcasting undertakings of reporting every 6 months, however, the DGC is supportive of the Commission's proposal for annual reporting to commence in the fall of 2010.

**Q7. Should all affiliated new media broadcasting undertakings be subject to reporting requirements? If not, what are the appropriate criteria and methodology for identifying those new media broadcasting undertakings affiliated with a conventional broadcasting undertaking that ought to submit data?**

**Q8. Considering the potentially large number of unaffiliated new media broadcasting undertakings, what criteria and methodology should the Commission use to define the subset of unaffiliated new media broadcasting undertakings, carried on in whole or in part in Canada, that should submit data? In particular, should the subset be defined by level of revenue, unique visitors, and/or the amount of content transmitted?**

20. The issue of which undertakings should be subject to reporting requirements is difficult due simply to the large number of undertakings which may fall under the New Media Exemption Order. As a starting point, however, the DGC believes it is vital that due to their comparative advantage in the marketplace, all affiliated new media broadcasting undertakings be subject to reporting requirements, be they affiliated with a conventional broadcasting undertaking or a broadcasting distribution undertaking.

21. The DGC also submits that any new media broadcasting undertaking that receives federal funds for the production of new media broadcasting content, whether affiliated or unaffiliated, should also be required to file reports with the Commission. In that regard, the Commission should work closely with the Canada Media Fund (CMF), who will have their own reporting requirements, in order to streamline the collection of this information and reduce the burden on the reporting parties.

22. The Commission may also wish to look at some form of registration system under the New Media Exemption Order in order to create a database of new media broadcasting undertakings operating in Canada. An analysis of exactly who the players are in the system may then help to set clear criteria for who should be required to report.

## **Conclusion**

The type of information the Commission is proposing to require from new media broadcasting undertakings will greatly help not only the Commission, but other industry stakeholders to understand this new broadcasting environment. This type of data is not currently available from any source resulting in varying opinions on the state of this sector in Canada. The DGC's comments urge the Commission to seek as much data as possible in

the most transparent way possible in order to finally develop a clear understanding and foster open discussions on this sector's contribution to the Canadian public.

23. The DGC appreciates the opportunity to provide these comments on this important issue. We look forward to reviewing the submissions of other interested parties and will respond in the reply phase of this proceeding.

24. All of which is respectively submitted.

Sincerely,

A handwritten signature in black ink that reads "Brian Anthony". The signature is written in a cursive, slightly slanted style.

Brian Anthony  
National Executive Director & CEO  
Directors Guild of Canada

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