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**DOC SUBMISSION – BROADCASTING NOTICE OF CONSULTATION CRTC
2019-379**

**RENEWAL OF LICENCES FOR THE ENGLISH AUDIO-VISUAL SERVICES OF THE
CBC**

A handwritten signature in black ink, appearing to read 'Ina Fichman', written over a horizontal line.

Ina Fichman, Chair of the DOC Advocacy Committee

A: Introduction

1. The Documentary Organization of Canada/Association des documentariste du Canada (DOC) is submitting its comments with respect to Broadcasting Notice of Consultation CRTC 2019 – 379.
2. DOC is the collective voice of independent documentary filmmakers across Canada, a national non-profit arts service organization representing more than 750 directors, producers and craftspeople from all provinces and regions of the country working in the documentary genre. DOC advocates on behalf of its members to foster an environment conducive to documentary production and strives to strengthen the sector within the broader film and television production industry. In so doing, DOC seeks to ensure that viewers in Canada and abroad have access to high quality, original programs reflective of current Canadian events, lives and values.
3. Documentary programs, created by Canadians for Canada and for the world, have been at the heart of our film & video culture for at least 70 years. From the beginnings of the CBC and the NFB to today's multi-platform digital environment, documentaries have revealed and explained Canadians and Canadian sensibilities to the world and the world to Canada.
4. With support from consumers, governments and the regulator, Canadian documentary producers are continuing this critical role for Canadians – a role that clearly fulfils each part of Section 3 (1) (i) of the Broadcasting Act.
5. DOC understands the central role played by CBC and SRC (the Corporation) in the Canadian broadcasting system and in the cultural life of Canada. DOC also recognizes the Corporation's obligation to provide trustworthy and unbiased information programming for Canadian audiences. Canadian documentary programs have been and continue to be a powerful and effective tool in assisting the Corporation to fulfil this obligation.
6. In the comments that follow, DOC will address the overarching programming objectives set out by the CRTC. However, DOC will focus its attention on the two objectives with greatest relevance and importance to its members. That is: (1) the Corporation's role in contributing to the creation of high-quality Canadian documentary programs; and (2) the need for a new regulatory approach to ensure that CBC continues to support the creation of Canadian documentaries and make them available to its audiences on multiple platforms.

B: Executive Summary

In order to accurately assess CBC's support for Canadian documentary programming, the Commission should require the licensee to file the following information to be placed on the public file of this proceeding. This information is necessary to establish the specific values for the conditions of licence DOC proposes.

ADDITIONAL INFORMATION REQUIRED FROM CBC

1. The number of hours of original, Canadian, long-form documentary programs (Cat. 2(b)) broadcast on CBC's licensed services (CBC English TV, CBC News Network and The Documentary Channel) in 2018/19.
2. The number of hours of original, Canadian, long-form documentary programs (Cat. 2(b)) broadcast exclusively on CBC GEM in 2018/19.
3. The number of hours of original, Canadian, short documentary programs (Cat. 2(a)) broadcast on CBC's licensed services (CBC English TV, CBC News Network and The Documentary Channel) in 2018/19.
4. The number of hours of original, Canadian, short documentary programs (Cat. 2(a)) broadcast exclusively on CBC GEM in 2018/19.
5. CBC's expenditures on the acquisition of, or investment in, Canadian documentary programs (Cat. 2 a & b) in 2018/19.

PROPOSED CONDITIONS OF LICENCE

1. The licensee shall broadcast a minimum of X* hours per broadcast year of **original** Canadian long-form documentary programs (Category 2(b) in peak viewing periods (7 p.m. to 11 p.m. Sept through April). A minimum of 75% of these programs must be produced by Canadian independent production companies.
2. The licensee shall broadcast a minimum of X* hours per broadcast year of **original** Canadian short documentary programs (Category 2(a) in peak viewing periods (7 p.m. to 11 p.m. Sept through April). A minimum of 75% of these programs must be produced by Canadian independent production companies.
3. The licensee shall, in each broadcast year, expend on the acquisition of, or investment in, documentary programs (Category 2(a) or 2(b)) a minimum of X*

* – these values to be based upon the amounts reported by CBC for 2018/19. See section D, para 7 for DOC's estimate of the CBC's current annual hours and expenditures on Canadian documentaries.

EXPECTATIONS

1. The Commission expects the CBC to continue to invest in the development of documentary producers, regional producers and producers from diversity groups and provide opportunities for them to access CBC's linear and streaming services
2. In line with CBC's strategy to prioritize local connections, the Commission expects the CBC to increase its budgets for documentary programs produced in local communities and regions.

3. The Commission expects the CBC to make public and to adhere to clear and comprehensive terms of trade that will guide its negotiations with independent producers.

Considering the proposals set out in this intervention, DOC conditionally supports the renewal of CBC's English-language audio-visual services. In DOC's view, requirements to ensure that the Corporation broadcasts a minimum number of original hours of Canadian documentaries and expends a minimum amount on such programs are necessary to ensure that it fulfils its key role in the Canadian broadcasting system.

C: Documentaries & the CBC

1. Historically, the CBC has been a strong supporter of Canadian documentary programming. Using the Corporation's in-house resources at both network and local levels it has informed and entertained Canadians with compelling stories of people and places that truly “contribute to a shared national consciousness and identity.” In recent decades, as the Canadian film industry has grown in strength and expertise, CBC has increasingly depended upon independent producers to discover and tell the stories that will inform, enlighten and entertain its audiences. DOC recognizes and applauds the CBC's past contributions to the documentary genre and to the development of the many talented Canadian documentary producers who continue to create programs viewed and admired around the world.
2. Today, as many have noted, we are living in a golden age for documentaries. The increased availability of high-quality factual programming on a variety of streaming services as well as through the NFB and PBS make it easier for viewers to find interesting programs. The huge success that Canada's premier documentary festival – Hot Docs – has with both filmmakers and audiences attests to the popularity of the genre. However, despite this positive environment, it appears to DOC that the CBC may no longer consider the documentary genre to be central to its programming strategy – either on its traditional networks or on its digital streaming service. DOC questions why the national public broadcaster would reduce its support for documentaries considering the increasing popularity of the genre and of its central role in fulfilling the CBC's mandate.
3. DOC's concerns with respect to CBC's decreasing support for Canadian documentaries is based upon certain facts on the public record. Specifically:
 - In its 2013 licence renewal for CBC TV, the Corporation agreed to a condition of licence requiring it broadcast a minimum of 9 hours/week, in prime time, of programs of national interest (PNI). Of these, a minimum of 2 hours/week must be long-form documentaries (Cat. 2(b)). However, in its current renewal application, the CBC proposes to reduce its PNI commitment to 7 hours/week and to remove any minimum requirement for long-form documentaries.
 - The CBC also proposes an expectation that it provide a total of 10 hours/week of PNI on either the network and/or its digital platforms. Again, there is no specific commitment to provide documentaries in this additional 3 hours/week of PNI.
 - In its renewal application, the CBC provides a table of projected expenditures for long-form documentaries (Cat. 2(b)) on its 3 licensed services. In each case, the CBC projects declining expenditures on Cat. 2(b) programming between 2019 and 2023.

	<u>2019</u>	<u>2023</u>
CBC TV	\$19.2M	\$17.6M
DOC Channel	\$2.9M	\$2.6M
CBC News Network	\$1.1M	\$1.0M

- In its annual reports filed with the Commission, CBC set out data with respect to the hours of PNI programming acquired from independent producers and the expenditures associated with those hours. The data shows the following:

	<u>Hrs of PNI from Ind. Prod.</u>	<u>\$ spent on Ind. PNI programs</u>
2013/14	417	\$110.1M
2014/15	537	\$113.1M
2015/16	508	\$125.8M
2016/17	N/A	\$160.9M
2017/18	502	\$147.0M

- This data shows a decline in the number of hours of independently produced PNI since 2015. While the 2016/17 does show a significant increase in spending on independently produced PNI this is likely to be the result of CBC's decision to eliminate its in-house documentary unit. It is troubling to see a major decline in spending on independents in 2017/18.
- Finally, the CRTC Monitoring Report 2019 shows that overall spending on long-form documentaries has declined by 1% between 2014 and 2018. While information on CBC's spending on Cat 2(b) programs is not available it is logical to assume that it has declined over this period since CBC is the major broadcaster of documentaries in the Canadian system.

4. In addition to the above facts, DOC members report a significant decline in licence fees offered by CBC in recent years, combined with a requirement give up Canadian streaming rights for the same lower fee. Documentaries that are acquired or produced by the Corporation are frequently scheduled in low audience periods and with minimal publicity. For instance, *The 5th Estate*, CBC's flagship documentary strand is scheduled on Sunday nights at 9pm - prime time for entertainment programs but not so much for challenging information. *DOCs POV* the primary location for independently produced long-form docs is launched in the low-viewing summer season. *The Nature of Things*, one of CBC's most popular and longest-running shows, is now scheduled on Fridays at 9pm – one of the lowest-viewing prime time hours. In DOC's view, frequent scheduling changes and low viewing timeslots contribute to the dramatic reductions in viewing that CBC has experienced in recent years. DOC recognizes that scheduling may not be as important as it used to be with increasing use of PVRs and access to streaming services such as CBC's GEM. Nevertheless, the recent scheduling changes for CBC's flagship documentary strands reinforce the sense that documentaries are a less important genre for the Corporation.

D: Regulatory Approach for the Corporation's Services

1. DOC agrees with the CRTC that a new regulatory approach, better adapted to CBC's changing viewing patterns, is necessary. DOC also considers that for the next licence term that approach should require CBC to exhibit a minimum number of original, Canadian documentary programs per year. DOC proposes that the requirement focus on original hours so that each year the Corporation invests in the creation of new programming. A focus on the creation of new Canadian programming is also consistent with the recommendations of the Broadcasting and Telecommunications Legislative Review Panel (BTLRP) report that all streaming services be required to contribute equitably to the creation of Canadian programs.
2. DOC also recommends that the first broadcast of these programs must be during peak viewing periods which DOC defines as 7pm – to 11pm Sept through April. This will ensure that that these important programs are available to the largest number of Canadians watching linear television. Currently, CBC can meet its PNI requirements by broadcasting repeats and scheduling docs during the low viewing summer months.
3. Equally important, CBC should be subject to a requirement to spend a minimum annual amount on the production or acquisition of documentary programs. A minimum of 75% of such spending should be on documentaries produced by Canadian independent producers. As noted above, the documentary genre is central to CBC's ability to fulfil its mandate and evidence exists that CBC is reducing its commitment in this area.
4. In DOC's view, if the CBC is not required to invest in mandate-driven programming such as documentaries, it will always be tempted to prioritize mass appeal programming in peak viewing periods in order to maximize advertising revenues. DOC applauds the recommendations of the Broadcasting and Telecommunications Legislative Review Panel (BTLRP) report – particularly with respect to requiring contributions to Canadian broadcasting from all “media curators” operating in Canada and for an ad-free CBC. However, any changes flowing from this report will not likely occur until late in the next licence period.
5. The Commission has developed a regulatory model for the large private television groups that is well adapted to the transition period in which we are living. It retains scheduling requirements for PNI on linear networks but places greater emphasis on spending requirements for all the licensed services in the group. It is now appropriate for this model to be adapted to the public broadcaster. DOC recognizes that CBC will resist any spending requirements and that a requirement based upon previous years revenues may not be appropriate. However, DOC sees no reason why the Corporation should not be held, at a minimum, to the expenditures it has projected for long-form documentaries in its renewal application with reasonable increases over the licence term. DOC would have no objection if the CBC was given the opportunity to request a review of any spending condition in the event of a significant change to its parliamentary appropriation.
6. Given the above assumptions and the evidence demonstrating that CBC has been reducing its support for the production, scheduling and promotion of Canadian documentary programs, DOC recommends that the CRTC impose on CBC TV the requirements set out in the Executive Summary above.

7. As noted earlier, the public record lacks the necessary information for DOC to establish the CBC's current support for documentaries. Based on recent and current schedules, DOC has estimated that CBC has broadcast in 2018/19 the following:
 - 60 hours/year of long-form Canadian documentaries based upon CBC TV's long-form documentary streams and original documentary specials broadcast on CBC TV in 2018/19.
 - 35 hours/year of short Canadian documentaries based upon CBC's current short documentary streams made available on CBC TV and CBC GEM in 2018/19.
 - CBC projects to spend \$23.2 million is on long-form documentaries to be broadcast on CBC TV, CBC News Network and CBC documentary Channel in 2019.

8. In order to accurately establish the number of hours of original documentary programming, the Commission should require the licensee to file the following information to be placed on the public file of this proceeding:
 - The number of hours of original, Canadian, long-form documentary programs (Cat. 2(b)) broadcast on CBC's licensed services (CBC English TV, CBC News Network and The Documentary Channel) in 2018/19.
 - The number of hours of original, Canadian, long-form documentary programs (Cat. 2(b)) broadcast exclusively on CBC GEM in 2018/19.
 - The number of hours of original, Canadian, short documentary programs (Cat. 2(a)) broadcast on CBC's licensed services (CBC English TV, CBC News Network and The Documentary Channel) in 2018/19.
 - The number of hours of original, Canadian, short documentary programs (Cat. 2(a)) broadcast exclusively on CBC GEM in 2018/19.
 - CBC's expenditures on the acquisition of, or investment in, Canadian documentary programs (Cat. 2 a & b) in 2018/19.

E: Reflection of Canadians, including diversity groups

1. DOC recognizes and supports the efforts made by CBC in recent years to ensure that all its programming better reflects the diversity of the Canadian population. In particular, CBC has reached out to groups of Canadians who have in the past been largely ignored by the broadcast media or portrayed in stereotypical fashion.
2. Documentary producers are regularly asked by CBC to submit proposals that highlight Canada's diversity and they are happy to comply. DOC considers, however, that while portraying the reality of Canada's diversity is essential, more should be done to encourage filmmakers from all segments of Canadian society to create Canadian stories from their perspectives.
3. CBC runs a risk that too much emphasis on “identity stories” can appear patronizing and may ultimately be divisive. It is now time for CBC to place greater emphasis on the compelling nature of the stories it tells - stories that will continue to be reflective of Canada's diversity – and less emphasis on the identity of the protagonists. This can be accomplished partly by a shift in promotional emphasis but most effectively by supporting the development of creative production talent from under-represented groups and regions.

4. CBC's mandate is not only to reflect Canadian stories and values to Canadians and the world but also to provide a Canadian perspective on stories that reveal the lives and concerns of people around the world. CBC should be encouraged to commission documentaries that meet these objectives as well.
5. DOC, as an organization, may be able to assist the Corporation in identifying and developing new talent so that the next generation of documentary producers has the skills to tell stories that flow naturally from their experiences as Canadians. DOC recommends that the CRTC encourage CBC to create support mechanisms, such as mentorships, that can develop the creative talent necessary to ensure that stories reflective of Canada's and the world's diversity are available on all CBC platforms.

F: Production of Canadian Programming

1. As noted above, DOC members have observed a disturbing trend over the past decade indicating a reduction in support for Canadian documentary programs. We believe that this decline is of concern not only to independent documentary producers but to all who recognize the importance of the public broadcaster giving pride of place to original, hard-hitting and revealing factual programming.
2. DOC recognizes that this renewal process takes place at critical moment for the CBC and for the Canadian Broadcasting System as a whole. Audiences are blessed with an increasing number of platforms providing a huge variety of quality programming. Traditional linear television services such as the CBC networks and specialty services are losing audiences to foreign and domestic streaming services. How fast this transition will take place and how far it will go is unknown but managing this change in viewing habits is critical for all broadcasters. CBC is to be commended for the emphasis it is placing on its digital strategy and on developing attractive Canadian streaming services such as GEM. GEM provides users with a large library of quality Canadian documentaries, most of which have previously appeared on the network. CBC also uses GEM as a platform for original short documentaries thus providing valuable space for developing independent producers.
3. DOC strongly recommends that the CBC be required to commit to increasing the number of original Canadian documentaries – both short and long-form and feature length specials on its linear services and on GEM. It is clear to DOC that the talent exists in Canada to produce high profile documentaries with international appeal. The CBC has the platforms to make such programs available to Canadians but needs to be required to allocate the necessary budgets. In addition to production budgets, CBC should be encouraged to increase its development budgets for documentary programs and series.
4. In addition to specific conditions of licence, the Commission should encourage CBC to increase budgets for locally or regionally produced documentaries. Such a move would be consistent with the Corporation's strategy to prioritize local connections and “strengthen this connection with significant local and regional content that is relevant to people in their communities and bring those communities to the rest of the country.”
5. With respect to CBC's relationships with independent producers, many DOC members report positive relationships with their CBC contacts. Sincere efforts are made to communicate with producers across

the country and inform them of the Corporation's needs. However, DOC remains concerned that the documentary genre is no longer considered strategically important by the CBC. The problem is not with individual staff but rather a failure of leadership to articulate the importance of documentaries and to support that with time slots, promotion and programming budgets.

6. Independent producers who are lucky enough to have a proposal accepted by the CBC must then engage in contract negotiations. Understandably, the Corporation's desire is always to obtain the maximum rights for the minimum cost. Since producers have so few opportunities for a Canadian licence fee they are in a relatively weak bargaining position. In 2006 the CRTC introduced a "terms of trade" policy expecting licensees to provide agreements with independent producers at their licence renewal hearings. In its 2009 Broadcasting Policy CRTC 2009-406 the Commission stated:

"[since] terms of trade agreements would provide stability and clarity to all concerned, the Commission will only consider renewal applications for seven years with finalized terms of trade agreements in place."

Unfortunately, in 2015, the Commission determined that:

"...it is no longer necessary for the Commission to intervene in this relationship by requiring adherence to terms of trade agreements. The Commission considers that broadcasters and producers now have the clarity and experience they need to negotiate any future agreement among themselves."

With respect, DOC disagrees with this and considers that the CBC should be required to demonstrate that it adheres to the best and most transparent business practices. In this respect, DOC fully supports the position of the CMPA. DOC is pleased to note that the recently published report of the Broadcasting and Telecommunications Legislative Review Panel also supports this position.

G: Access to and Distribution of Canadian Programming

1. CBC has the ability to distribute Canadian documentaries on three main platforms: the main linear network and local stations available free over-the-air or on basic cable/satellite; specialty services (CBC News Network and the Documentary Channel) available for a fee on cable/satellite; and, on the GEM streaming service available free with high speed internet access. The platforms are there but the CBC only provides two documentary streams on the main network for independent producers – The Nature of Things and DOCS POV – plus CBC Short Docs available on GEM. This means that each year CBC acquires from independent producers approximately 60 hours of long-form documentaries for the network and approximately 35 hours short docs for GEM, acquired at bargain basement prices. However, with its inadequate scheduling and limited promotion practices CBC is clearly not doing enough to support this important and popular genre of programming.
2. Streaming services such as Gem benefit greatly from providing documentaries. Viewers who enjoy documentaries appreciate the ability to search for subject matter that interests them at times that are convenient. GEM will benefit from offering Canadians the largest possible number of documentaries with the broadest possible range of subject matter.

H: Role of Programming in Democratic Life

1. DOC recognizes that CBC provides Canadians with a wide range of news and information programming on all its linear and digital platforms. CBC also plays a central role in training and supporting Canadian journalists and in articulating journalistic values. While more can always be asked in this area, Canadians should count themselves fortunate to have a public broadcaster that works hard to provide “trustworthy, verified and non-biased news and information.”
2. Documentaries have the capability of providing Canadians with factual information regarding issues of local, regional, national and international concerns. Point of view documentaries expose Canadian audiences to ideas that question, or challenge received wisdom and the status quo. Canadian perspectives on international issues help to broaden our knowledge of other countries and cultures and avoid the trap of ignorant insularity.
3. It is surely obvious to everyone that the documentary format, which Canadians did so much to develop and make popular around the world, remains an ideal tool to provide Canadians with trustworthy and in-depth information. The popularity of documentaries internationally and their ease of access through streaming services means that non-Canadians have much greater knowledge of our country, its values and its peoples. It is an important role of the national public broadcaster to do everything possible to ensure that the continuous creation of quality documentary programs is supported.

I: Conclusion

1. DOC thanks the Commission for the opportunity to participate in this proceeding. It expects to be able to provide additional information and advice once CBC has placed on the public record the information we seek.
2. DOC wishes to appear at the oral public hearing scheduled for May 25, 2020.