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February 20, 2020
Mr. Claude Doucet
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario
K1A 0N2

Dear Mr. Doucet:

Re: Broadcasting Notice of Consultation CRTC 2019-379 – Licence renewals for the Canadian Broadcasting Corporations English-language audio-visual services (2019-0282-5).

A. Introduction

1. This is the intervention of the Directors Guild of Canada (the DGC") with respect to the renewal of the broadcasting licences for CBC's English- and French-language audiovisual programming services. The DGC wishes to appear at the public hearing to elaborate on the comments made in this intervention as well as to respond to replies made and oral submissions by the Canadian Broadcasting Corporation (hereinafter, the Canadian Broadcasting Corporation is referred to as the "CBC" or the "public broadcaster").

2. The DGC is a national labour organization that represents key creative and logistical personnel in the film, television and digital media industries. It was created in 1962 as an association of Canada's film and television directors. Today, it has approximately 5,000 members drawn from 47 different craft and occupational categories covering all areas of direction, production, editing and design of screen-based programming in Canada.

3. The DGC's comments in this intervention are limited to issues related to the CBC's English-language television and related digital media assets. While we make no separate submission with respect to the public broadcaster's French-language services, the DGC's proposed principles for a group approach to regulation are equally applicable to CBC's English- and French-language services.

B. Executive Summary

4. In the context of this licence renewal and notwithstanding potential changes to the CBC's funding model, the DGC considers that programs of national interest ("PNI") are an utmost priority for CBC. Rather than focussing on commercial programming similar to private broadcasters, the public broadcaster should commission predominantly and distinctively Canadian content; programming of high-standard as set out in the Act. As part of CBC's public interest mandate, we restate in this submission the importance of taking creative risks which can enhance the quality and distinctiveness of content broadcast on CBC services.

5. The DGC questions CBC's limited disclosure in this proceeding. The public broadcaster has shown reluctance to share information with regard to its digital activities and limited its description of its future programming plans to a short two-page strategic plan summary. For these reasons, the DGC is concerned that CBC plans to progressively disengage from its CPE and PNI commitments on both conventional and online, favouring instead foreign and library content, and repeat programming, rather than original Canadian programming. Moreover, CBC provides no compelling reasons to justify the proposed reduction of PNI exhibition hours across its television services.

6. CBC's public filings on PNI show significant fluctuations in expenditures over the course of the current licence term. For the large private TV groups such yearly PNI expenditure fluctuations are limited to +/-5%; it is unclear why the CBC does not have a similar limitation.

7. CBC accountability and transparency are important both to implement appropriate and sound regulation, and to ensure long-term governmental support. Currently, in many respects, CBC has fewer regulatory obligations and reporting requirements than private broadcasters, while being a public entity. The DGC questions CBC reluctance to share more data on its digital activities, currently providing only aggregate overall and audiovisual Cancon content expenses.

8. As a crown organization, it is difficult to understand CBC's priority to embrace digital platforms while at the same time resisting any form of regulation and public reporting to Canadians. This situation is particularly confusing as projections available in public filings demonstrate that CBC's digital platforms will increasingly rely on parliamentary appropriation in the years to come.

9. In light of this, the DGC urges the CRTC to impose regulation and reporting requirements on CBC's digital activities. The DGC also proposes that CBC be required to develop an online measurement framework that will help to improve and adapt future regulation for online platforms. CBC already has a set of metrics that should be made public in an aggregated form.

10. In light of the recent publication of the "BTLR report[1]", CBC's argument that the current version of the Broadcasting Act prevents the CRTC from implementing a future-facing regulatory framework for the Corporation's digital platforms has been shown to be false. The BTLR report clearly stated that it is time to act *now* and that the Commission has clear jurisdiction over internet broadcasting, foreign and domestic. Consequently, the current situation calls for a thorough examination of CBC's licensing framework in a completely transformed landscape since the 2012 licence renewal.

11. CBC's proposed cross-platform approach based on exhibition hours is outdated as it uses a metric that the Commission itself has recognized is becoming less and less relevant for traditional television regulation, and then applies it online, even though it is clear that exhibition hours on online platforms cannot be measured the same way as on conventional television. As an alternative, the DGC proposes a multi-platform licensing framework that would consist of a group-based expenditure approach.

12. The DGC considers that a group expenditure approach is the best model for balance and transparency. Since 2010 and the CRTC's Create Policy, expenditure requirements have been increasingly recognized as a proven and reliable methodology. The DGC recommends that the CRTC introduce new conditions of licence for CPE and PNI requirements across CBC's services and platforms, along with a reinforced commitment to original first-run programming and stricter reporting rules.

13. However, a group expenditure approach should be in addition to, not instead of, CBC's existing weekly PNI exhibition requirements on conventional English television, as well as hours allocated to children programming. Taking into account the eroding support for feature film on CBC and Canadian television in general, the DGC proposes production, exhibition and promotion requirements as well reporting requirements for feature films.

C. ***CBC's overarching objectives***

14. The "BTLR report"[2], made public at the end of January 2020 offers recommendations to the government to review Canada's communications laws, including a new role for CBC: "we recommend that the Broadcasting Act be amended to add the following elements to the mandate of CBC/Radio-Canada: showcasing Canadian content to international audiences; and taking creative risks." There is no reason to wait for legislative change for the CBC to redouble its efforts in this regard.

[1] Canada's Communication Future : Time to Act, Broadcasting and Telecommunications Legislative Review, January 2020.
[2] Ibid.

15. CBC has been at the forefront of creating and exhibiting new and innovative audiovisual content that "informs, enlightens and entertains" Canadians for decades. The Corporation should not be a duplicate of private broadcasters. Instead, CBC should be responding to market failure, especially by supporting under-represented genres of programming..

16. CBC television should be the leader in providing high-quality, distinctive and innovative Canadian programming to Canadians, and we consider drama programming to be the most appropriate genre of storytelling to convey this. Our national public broadcaster has to take on the role of an incubator of creative ideas, taking risks and challenging Canadians with its content.

17. In its application package, CBC did not provide a full plan or enough relevant information on its cross platform approach to make informed comments. In any case, the DGC believes that in a multi-platform world and in an already highly concentred broadcasting market, programs of national interest (PNI) are the quintessential form of programming where CBC can make a difference. It is not a coincidence that PNI are so aptly named, they are of "national interest". CBC should make PNI a priority, as well as the creation of original programming, on all its audiovisual services and platforms.

18. To ensure that the CBC is taking appropriate creative risks in its programming choices, serving the public interest should be a guiding principle for Corporation. In that respect, the expert panel mandated by the government recommended that CBC be transformed into a "public media institution with a singular focus on serving a public rather than a commercial purpose; one prepared to experiment and increase the diversity of its content while remaining committed to high-quality standards[3]. Legislative change is not required for the CRTC to confirm this focus.

19. Consequently, the DGC believes that this proceeding calls for a thorough examination of a new licencing framework for CBC encompassing traditional and online platforms. The vast majority of Canadians are still watching conventional television while online platforms are becoming more popular. The CBC should not reduce its levels of Canadian programming on conventional television, and a minimum should be set for conventional and online.

CBC's mixed funding model and programming strategy

20. The DGC fully supports the role of CBC as a strong, national and independent public broadcaster. To continue providing high-quality programming, we recognize that the current funding model which draws on resources from advertising may be appropriate. However, the quest for ratings to obtain ad dollars should not compromise the quality

[3] Ibid, Page 13.

and distinctiveness of CBC programming. We understand the “BTLR Report” approach to progressively reduce CBC’s reliance on advertising, but only if there is a viable model for stable funding, protected from political interference and potential funding cuts.

21. In 2018, CBC pledged to gradually veer away from reliance on advertising revenue with CBC’s CEO Catherine Tait defending the idea of a diversified finding revenue model[4] which would include paywalls and subscription fees. But in 2019, CBC’s strategy for conventional television took a new turn with an increased emphasis on game and reality shows such as *Family Feud* and *Battles of the Blades*.

22. In making a bid to boost advertising revenues, CBC opted for commercial programming more in the field of private broadcasters. The quest for advertising revenues is affecting CBC’s television core programming strategy and choices. While audience is clearly one measure of success, CBC’s mandate does not actually call for content that is simply popular, but rather, prioritizes content that is relevant for all Canadians.

23. On May 22, 2019, the CBC issued its 3-year strategic plan, “*Your Stories Taken to Heart*”. The brief two-page summary made available by CBC. CBC does not present a comprehensive strategy detailing how the plan’s pillars will be achieved. More specifically, although the DGC recognizes and supports the need to create orginal Canadian programming for younger viewers, CBC should provide clarification on how children’s programming will be more of a priority on its online platforms and conventional services.

24. As a public broadcaster, CBC is similar to the BBC and France televisions, both well-respected brands. In an analogous manner, the Corporation should support the types of content that the market systemically fails to provide: programming of “high standard” that is “predominantly and distinctively Canadian[5]” as stated in the 1991 Broadcasting Act. In other words, CBC should strongly support programs of national interest (PNI), and other categories that are aligned with CBC’s mandate, such as news.

D. ***CBC’s accountability and transparency***

25. The DGC commends the CBC for meeting or exceeding most of its various expectations and conditions of licence during the current licence term. We are concerned, however, with the repeated swings in programming emphasis over the years and sometimes over successive licence terms: the production and exhibition of feature films, long form documentary and children programming. CBC financials show significant swings in

[4] https://www.thestar.com/entertainment/television/2018/12/28/cbc-boss-catherine-tait-on-advertising-streaming-the-four-headed-news-show-and-more.html

[5] Broadcasting Act, Article 3.1(m)(i)

programming expenditures that put certain genres at risk, such as a $10 million difference for documentary programming between 2015-16 and 2017-2018. The DGC urges the Commission to discuss these shortcomings with the CBC at the public hearing so that safeguards can be implemented.

26. The DGC also notes a sharp decrease in distinctively Canadian programs in the CBC television's schedules, as well as a significant increase in "repeat programming"[6]. New executive vice-president of English-languages and industry veteran Barbara Williams explained in an interview[7] published in May 2019 that the factual format is what draws audiences, thus making little distinction between CBC and private broadcasters. The CBC's programming choices must be founded on its mandate as a public broadcaster and factual and reality programming should not prevail over other genres.

CBC GEM

27. With repeated calls[8] for a regulatory framework that encompasses all content commissioned by the public broadcaster and the fact that CBC has proposed a cross-platform approach for its services, CBC's English-speaking platform GEM is a focus of intervenors in this proceeding.

28. Launched in December 2018, GEM is newer than it's francophone counterpart, Tou.TV, which was created in 2013. Given the difference between the two platforms in terms of years of existence, operating context and language, the DGC assumes GEM may evolve quite differently than Tou.TV. In any event, the DGC finds little in CBC's public filings concerning GEM's strategy in comparison to conventional television or Tou.TV for the future licence term. More was said publicly by CBC officials at the recent CMPA Prime Time Conference[9], than has been submitted to the CRTC.

29. Since its inception, the GEM brand appears to have been conceived to appeal to younger audiences and not replicate conventional television. CBC executives recently explained that GEM originals target a young adult population, but that can also attract older audiences. GEM will host a small section for international series, include a

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[6] *Public Notice CRTC 2000-1*, A distinctive voice for all Canadians: Renewal of the Canadian Broadcasting Corporation's licences – A preamble to the Commission's decisions on the CBC licence renewals: Decisions CRTC 2000-1, 2000-2 and 2000-3, January 6, 2000, at paragraph 5.
[7] Globe and Mail: CBC executive Barbara Williams on public broadcasting, ad revenue and Family Feud skeptics, May 30, 2019, online: https://www.theglobeandmail.com/arts/article-cbc-executive-barb-williams-on-public-broadcasting-ad-revenue-and/. *"We also know the factual fun format stuff is engaging, and it draws a big audience, and it brings people into our schedule, and from there you promote them into the other things they might not have known about – that's how TV programming still works."*
[8] The CRTC's Harnessing Changes report and « Canada's Communication Future », a report presented by an expert panel respectively in 2018 and 2020 constitute definitive proof of the need to apply regulation to all online platforms and services, Canadian and foreign.
[9] Prime Time 2020: https://cmpa.ca/prime-time/schedule/ | .Streaming opportunities for Canadian producers" and "Exploring the explosion in short form content."

Canadian classics library, invest in high impact docuseries, and more importantly, work at finding Canadian voices that would not be represented otherwise.

30. The DGC praises CBC for driving new audiences online with diversified programming that takes creative risks. However, in the drive for more content being commissioned for its online platforms, we are concerned by the lack of available data. Moreover, this programming push should not be detrimental to the Canadian independent production sector through lower budgets. In these circumstances, the DGC respectfully asks the Commission to direct CBC to provide its full and complete three-year strategic plan, titled "Your Stories, Taken to Heart".

31. Since its last licence renewal in 2013, the broadcasting ecosystem has quickly evolved, making CBC's reporting more important than ever to ensure it fulfills its mandate. As the national public broadcaster, CBC should be exemplary in this regard, but is currently providing less transparency than in many areas than private broadcasters fuelling the fire of criticism and questioning of the relevance and role of a public broadcaster in the digital age. In other words, we believe that the lack of clarity in which CBC currently operates poses a serious threat to the Corporation's public support.

32. Moerover, CBC currently has less stringent rules[10] imposed than private broadcasters both for conventional television and for reporting on digital media activities which makes it difficult to compare and contrast the public broadcaster's performance. Interveners do not have enough information or data about CBC's online platforms such as GEM to determine the success of the operation and deliver appropriate comments.

CBC and reporting on digital activities

33. The 2010 CRTC policy established reporting requirements for new media broadcasting undertakings[11], recognizing the importance of this data collection process:

> "In particular, the Commission considers that the ability to follow revenue trends and identify industry investment is critical in evaluating the importance of broadcasting in new media within the Canadian broadcasting system. For instance, the ability to track revenues from sources such as advertising and subscriptions will allow the Commission to assess the growth of the new media broadcasting industry, and make comparisons with the traditional broadcasting system.[12]"

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[10] CBC licensing framework has not made the transition to an expenditure methodology yet, which is currently in effect for private broadcasters.
[11] Broadcasting Regulatory Policy CRTC 2010-582, Reporting requirements for new media broadcasting undertakings.
[12] Ibid. Para 10.

34. In its final decision in the previous CBC licence renewal of 2013, the CRTC acknowledged and approved CBC's request to not set out its digital media finances as distinct line items in its public annual reporting. Instead, digital media expenses were aggregated with television and radio expenses (broken down by English- and French-language services). Digital media revenues were included in advertising revenues, which are broken down by English- and French-language services.

35. Then, CBC reported on July 13, 2018, the decision to change its filings with the CRTC: "we no longer include digital revenues (or our parliamentary appropriation related to digital activity) in order to be consistent with what other broadcasters are providing, considering that digital is exempt from CRTC licencing[13]".

36. Finally, following the 2019 *Call for comments on the Commission's policy on Canadian programming expenditures*, the Commission issued a Broadcasting Commission letter[14] in June last year and published aggregate data on digital revenues and expenditures associated with 19 private broadcasters' digital media services. However, data provided by the CBC/Radio-Canada are not included in this analysis.

37. The Commission justified the absence of data given that "CBC/Radio-Canada is subject to a unique regulatory framework and operates under a different business model to that of private commercial broadcasters, the inclusion of CBC/Radio-Canada's data would have inaccurately portrayed the state of investment in Canadian programming in the digital environment in Canada[15]".

38. The 19 private media services reported total spending of $233 million in digital content related expenses and an aggregate of 44 million for Canadian digital content related expenses in 2018, which represents an average investment in Canadian programming of 19% of total programming expenses. In the course of the current proceeding, the CBC reported Total Digital Canadian Content-related Expenses and Total Canadian Content-related Expenses for Audio Visual only.

39. In 2018, 40% of CBC's Total Digital Content Expenses went to Canadian Audio Visual content compared to 19% for reported private broadcasters. And that number is going up for CBC – to 46% in 2019, and projected to go to 53% by 2023. That relative higher CBC investment in Canadian content is to be expected and applauded – but it still begs the question as to why roughly half of CBC's digital programming expenses may be going to foreign content – or, if that is not the case, why CBC has chosen to include

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13 Modernizing our conventional TV reporting for the CRTC's Broadcasting Financial Summaries, https://cbc.radio-canada.ca/en/media-centre/modernizing-conventional-tv-reporting, July 13, 2018.

14 Broadcasting Commission Letter addressed to the Distribution List, June 21, 2019 https://crtc.gc.ca/eng/archive/2019/lb190621.htm

15 Ibid.

audio in its overall digital content expenses, but not in its Canadian digital content expenses.

40. The DGC also raises the question why in the context of this renewal, the CRTC and CBC allowed the release of the Corporation's Content-related Expenses and Canadian Content-related Expenses, but not the total digital revenues that were released for private broadcasters? Consolidated advertising and subscription revenues for CBC's audio and audiovisual online were later released in February 2020 due to a procedural request made by Friends of Canadian broadcasting[16]. The DGC wonders what competitive harm could be caused by releasing CBC's disaggregated English and French revenues (including parliamentary appropriation) as well as expenses numbers for audio and audio-visual digital services.

41. In ten years, the Canadian broadcasting landscape has profoundly changed, which makes older policies set for nascent digital media services less relevant today. Over the last decade, CBC has actively been investing in digital and seeking out audiences online as exemplified by the success of Tou.tv and more recently GEM.

42. Without more detailed data reporting on digital, it is impossible to know what CBC's digital Canadian content-related expenses, or digital CPE, as a percentage of total digital revenue actually is. The CRTC required private broadcasters to disclose digital revenues, and publicly released the aggregate number - in 2018, that being $412 million, resulting in a digital CPE of 11%. **Based on estimates using available data, CBC's digital CPE could be as low as that of private broadcasters, and is almost certainly lower than that of CBC TV**[17]. This is troubling, as it suggests that CBC may be spending relatively more on digital "infrastructure" than programming – making digital investments a poor substitute for radio and television platforms from a program delivery "efficiency" point of view.

43. CBC's spending practices for Canadian programming on digital platforms remain unclear. For 2018-2019, CBC reported $42 million in content-related expenses, including

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[16] Broadcasting Commission Letter addressed to Daniel Bernhard (Friends of Canadian Broadcasting). Online: https://crtc.gc.ca/eng/archive/2020/lb200128.htm

[17] While CBC provided data on digital "earned revenues" on February 3, 2020, it did not provide allocations of government funding (parliamentary appropriation or other). DGC was therefore required to estimate digital CPE based on other publicly available data. We used CBC's filed projections for 2019 and 2019 Annual Report totals (which overlap by six months). We used two approaches: (1) Add up parliamentary appropriations to conventional broadcast services, deduct from total parliamentary appropriations (or total government funding) and add in earned revenues; and (2) Add up total CBC revenues and deduct broadcast revenues. The results vary widely, averaging from a digital CPE low of 11% to a high of 28%. All pointing to the inability of interveners to meaningfully comment on CBC's digital activities without more complete data being disclosed, at minimum: (1) total revenues, including all government funding,; (2) total digital Canadian content-related expenses; and (3) total digital content related expenses, all three disaggregated by English and French Markets and audio and audio-visual services.

audio expenses, with a total of Canadian content related expenses of $19 million. No guidance is given for GEM or Tou.TV as to the proportion of content expenses that are repeat programming (catch-up television) or represent direct investments in original content. Additionally, for the purpose of this proceeding, it would be useful to have access to the amount of hours and types of Canadian content available on CBC's audiovisual streaming platforms or how Canadians watch and connect with content online.

44. Philosophically, it is difficult to understand how the CBC can embrace digital platforms while at the same time discarding any form of regulation and public reporting to Canadians. In other words, CBC's claim to have a robust programming strategy for its digital platforms is contradictory and diametrically opposite to CBC's argument that the current version of the Broadcasting Act prevents the Corporation from embracing future-facing regulation and specific requirements for digital platforms. What gets measured gets done, and we are concerned that CBC is trying to avoid appropriate regulatory oversight.

45. Another argument justifying regulatory oversight can be found in the recent financial numbers released by CBC with regards to online platform revenues. CBC presented projections until 2023 demonstrating that CBC's GEM and Tou.TV future content costs cannot rely on advertising and subscription revenues only, revealing an important funding gap. This means CBC's digital services will continue to rely on parliamentary appropriation which should logically make them subject to regulatory oversight as set out in the Act.

46. For the above-listed reasons, the DGC submits that the CRTC should:

    a. Require CBC to disclose in the course of this proceeding financial numbers to better understand CBC's digital activities, especially total revenues by service, (separating audiovisual and audio content) by language market; providing total digital content-related expenses and Canadian content-related expenses by service or platform;

    b. Adapt its approach for the regulation and reporting of CBC's digital expenses including setting a condition of licence for CBC to report detailed financial data for each of its online platforms. This request is consistent with DGC's position presented during the 2019 Commission's consultation on reporting on Canadian programming expenditures[18].

E. Conditions of license appropriate to CBC's mandate and shift to digital

[18] Broadcasting Notice of Consultation, 2019-91, Call for comments on the Commission's policy on Canadian programming expenditures*, h*ttps://www.dgc.ca/assets/Policy-Files/CRTC-2019-91-DGC-submission-FINAL-.pdf

A multi-platform licencing framework

47. CBC wrote in its supplementary brief: *"we believe the challenge is how to transition from legacy regulation of CBC/Radio Canada's traditional platforms to a future-facing regulatory framework."* CBC's proposed changes to include regulatory commitments for online platforms do not appear to be as innovative as the Corporation is trying to demonstrate. Instead, the CBC proposes to continue with the existing regulatory framework based on exhibition hours, until new legislation is implemented and all broadcasters are subject to regulatory oversight for their online platforms:

> "In the absence of these legislative changes, we believe it is necessary to continue with the regulatory approach currently in place under the *Broadcasting Act*: that is, the continued licensing of traditional services and the exemption of digital services under the Digital Media Exemption Order (DMEO)".

48. The DGC believes that the there is no need for CBC's licencing framework to "transition" towards a future regulatory framework. As recently confirmed in the Broadcasting and Telecommunications Legislative Review (BTLR or "Yale Report"): the CRTC has the mandate to act. The BTLR also clearly confirmed CRTC's oversight on digital. "the Broadcasting Act be amended to shift the CRTC's role from licensing individual services of CBC/Radio-Canada to overseeing all its content-related activities.[19]"-

49. As a result, the present situation should not prevent the CRTC from implementing appropriate oversight of CBC's online platforms, despite arguments that CBC's digital platforms are currently exempt from licensing pursuant to the Digital Media Exemption Order[20] (DMEO).

50. The position taken by CBC is disingenuous, as we expect the CBC to be a trailblazer for Canadian stories, we also expect the CBC to have a leading role and set an example in the Canadian broadcasting landscape. Industry stakeholders are well aware that a new legislative regime will take a number of years before implementation. CBC provides no justification to delay the transition other than an apparent attempt to escape regulatory oversight.

51. The DGC firmly believes that how the transition to a new legislative framework will be conducted over the next several years is crucial to the system as a whole, in that it will

[19] Canada's Communication Future : Time to Act, Broadcasting and Telecommunications Legislative Review, January 2020, page 35.
[20] *Exemption order for digital media broadcasting undertakings* (DMEO) is set out in the appendix to Broadcasting Order 2012-409.

more readily bring in previously unregulated players. It will not, however, fundamentally change the Commission's ability to regulate the CBC. Consequently, not requiring the CBC to adopt future-facing licencing commitments in this new licence term would be a missed opportunity and leave an increasingly large gap in the Commission's oversight over CBC's broadcasting activities.

52. Older regulatory models are progressively giving way to platform neutral regulation across the world[21]. This is why CBC's particular proposal for cross-platform conditions of licence is of concern. As a principle for future regulation, *platform neutral regulation* does not mean that all platforms are treated equally, but that they should all be included under the regulatory tent.

CBC's proposed regulatory commitments

53. In its submission package, CBC presents a new cross-platform regulatory approach encompassing conventional and digital programming. On PNI, the proposal is to reduce required weekly prime time TV hours from nine to seven hours. To balance, CBC proposes counting exhibition hours for digital PNI programming, with an overall 'expectation' of ten hours per week devoted to PNI on both TV services and digital platforms.

54. When the Commission asked CBC in an information request how the Corporation would measure exhibition-based thresholds on online platforms, CBC's reply was that it would measure incremental hours of programming made available to the public each week.

55. CBC provides no guidance on which digital platforms would be used to exhibit PNI. In addition to GEM or TOU.TV, CBC owns various digital platforms and it remains unclear how a shift of PNI exhibition hours from conventional television to digital would be achieved or, in any way match the audience reach potential of CBC TV.

56. CBC explains in its supplementary brief, page 6:

> We believe it is appropriate now to bring the regulatory framework into better alignment with the changes in viewing patterns. Consequently, we are proposing a new approach to content commitments for our French- and English-language television networks which takes into account, for the very first time, both traditional and digital exhibition of audio-visual content.

57. Conventional television exhibition hours simply do not equate with online exhibition hours. The use of incremental exhibition hours as proposed by the CBC is nonsensical

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[21] Government commits to 'platform-neutral' media regulation, December 12, 2019, https://www.if.com.au/government-commits-to-platform-neutral-media-regulation/

for digital platforms. Making hours of content available online does not guarantee that they will be watched, let alone guarantee discovered. It is a flawed approach – unlike the proven and tangible methodology of expenditures requirements set by the Commission for private broadcaster groups.

58. In the context of our industry, private or public broadcasters' respective services do not operate in a vacuum and in isolation from each other. CBC presents what it calls a "cross-platform goal described as a total number of exhibition hours for combined conventional television and digital platforms." This is applying an old and somewhat discredited exhibition recipe to a new environment. Exhibition hours are measurable on an online audiovisual programming service but would be more appropriately considered shelf-space requirements, a very different concept.

59. Finally, CBC provides no justification whatsoever for reducing PNI exhibition hours on conventional television – aside from diversion to digital. As the exhibition hours methodology is incompatible with digital services, it seems that CBC's proposal is either poorly conceived or an attempt to reduce its mandated contributions to PNI.

DGC's proposed regulatory model: towards an expenditure-based approach

60. CBC wrote in its response to the CRTC's questions of October 30, 2019 that the Corporation would not support an expenditure-based approach, justifying it on the basis that it has no need for flexible spending requirements, as set out in the group approach[22] that applies to large private-group broadcasters. CBC further justifies its position in favour of exhibition hours of programming versus expenditure requirements by explaining that meeting expenditure obligations is not an issue for CBC as the Corporation historically spends very little on non-Canadian programming.

61. CBC overlooks an important point in its answer as budgets do matter. Budgets reflect the overall scope of the production. The DGC is not only concerned with the total volume of programming commissioned by the CBC but also the budget amounts, depending on the services and platforms where the content is distributed. Budgets and production costs for scripted content vary significantly between services, particularly between conventional TV and online services.

62. The average budget for primetime half-hour scripted series made for Canadian broadcast television is in range of the $1.3-$1.4 million[23]. The equivalent figure for a 22 minute original web series commissioned by these same broadcasters is less than $200,000 – less than 1/7th of budget and production quality. Allowing the CBC to fulfill TV exhibition requirements through the creation of web series content, not

[22] Broadcasting Regulatory Policy CRTC 2010-167
[23] Average budgets based on an internal research conducted by the DGC.

commissioned for primetime broadcast television, could significantly reduce obligations to produce Programming of National Interest. The purpose in establishing expenditures obligations would be to ensure that CBC continues to commission high-quality programming on all services and platforms.

63. Due to the CRTC's digital media exemption order,[24] the CRTC is lagging behind establishing a regulatory framework applicable to digital platforms. While programming quotas can continue to have a role, our national public broadcaster should be held to the highest expectations. These high requirements are best translated into expenditure requirements.

64. The reliability of expenditures requirements as a form of regulation has been demonstrated by the PNI requirements applied to private broadcasters since 2010. Expenditures requirements are the proven way to ensure that broadcasters invest a sufficient amount in Canadian programming and genres deemed programs of national interest. Expenditures requirements are also the surest way to reconcile a modern regulation applicable to both conventional television and digital platforms.

65. In the CRTC Create Policy[25] of 2015, the Commission recognized that exhibition requirements are a less effective tool in an on-demand environment:

> The Commission has used exhibition requirements as one of the means of achieving the Act's objectives set out in section 3(1)(*e*) and (*f*). It is apparent however, that while content quotas of this type may have been useful in ensuring the presentation of Canadian programming in a fully linear television system, they will be a less and less effective tool in an increasingly on-demand environment[26].

66. The DGC submits that in order to expand CBC's mandate to the digital platofrms, the Corporation should be mandated to adopt an expenditure based-approach to all audiovisual services, including its digital services.

CBC's PNI expenditures

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[24] Broadcasting Order CRTC 2015-356**,** Exemption order for digital media broadcasting undertakings (DMEO).
[25] Broadcasting Regulatory Policy CRTC 2015-86, online: https://crtc.gc.ca/eng/archive/2015/201586.htm(the "Create Policy").
[26] CRTC's Create Policy, Para 190.

67. From a low of $89.5 million in 2014, CBC's PNI expenditures for English-language conventional television[27] appear to have remained relatively stable from 2016 to 2019 with a slight increase to $130 million in 2019. However, the PNI expenditure percentage based on the standard historical previous year's revenue tells a different story: CBC's PNI for English conventional television has had significant fluctuations, even more glaring when we look at specific genres such as long-form documentary or feature film.

68. We compared the actual CBC English television PNI percentages with the CBC's projected PNI in its Application, and noticed that the actual PNI is lower by 4% in 2018 and 3% in 2019 than that forecasted. PNI levels are projected by CBC to decrease on an absolute basis through the next licence term, although not as a percentage of CBC's television revenues (which are also expected to decrease). CBC, while projecting a significant increase in digital revenue and expenses, provides no projection on digital PNI expenditures.

69. Given the evidence of significant historic fluctuation and apparent unreliability of CBC's projections, the DGC recommends that CBC be required to maintain a consistent percentage for CPE and PNI, based on previous year's revenue, including monies diverted to digital. As CBC's PNI for English television is calculated at 22% for 2019, this level should be maintained both on English conventional TV and English online audio visual platforms like GEM at 21% based on a three-year average. This "group" PNI and CPE approach would be consistent with the Commission's approach with the major private TV groups, but reflect the fact that the primary group flexibility and synergies that CBC is seeking are between TV and online. CBC's English conventional TV CPE of 42% in 2019 is much lower than CBC's historic PNI and the DGC recommends that CBC, as Canada's public broadcaster, be expected to maintain at least a 50% CPE on English conventional television and online audio visual platforms.

PNI requirements: a group expenditure approach for all CBC's television services

70. During CBC's previous licence renewal the DGC did not see the necessity for a group approach for CBC's television services, especially because digital platforms such as Tou.tv were still in their infancy, and GEM would only be created years later. Today, due to changes in viewing patterns, platforms such as Tou.tv and GEM can be both complementary platforms to conventional television and standalone platforms.

71. The DGC believes that the appropriate application of private broadcasters' group approach to CBC services would be if the Corporation were required to meet a cross-platform condition of licence for CPE and PNI expenditures levels for its digital platforms. Due to the nature of the public broadcaster, there should be both an expectation of transparency and specific spending requirements for each genre on each service and

[27] CRTC's Aggregated Conventional Television Annual Returns

online platform. CBC's online audio visual services should be regulated like conventional television; nothing justifies the absence of regulation.

72. The policy rationale for regulating CBC's digital audiovisual platforms has similarities to when the CRTC first regulated private broadcasters' conventional and discretionary services together in the "group based approach to the licensing of private television services" in 2010[28]. In its introduction to the policy for a group-based approach, the Commission stated that "The advent of digital technologies for the distribution of broadcasting and for the broader exchange of all digital information has fundamentally changed the basis for existing approaches to television broadcasting regulation."

73. It is DGC's view that CBC's current license renewal involves the same digital challenges described ten years ago by the Commission, but they are now even more pronounced: "as a step in adapting the broadcasting system to the digital age, the Commission considers it appropriate to pursue a new approach regarding the requirements for the exhibition and creation of high-quality Canadian programming.[29]"

74. The 2010 CRTC's policy decision reversed the 1999 TV policy on priority programming and reintroduced expenditure requirements on conventional television. At the time, the CRTC harmonized CPE requirements on both conventional and discretionary services and gave the groups more flexibility to distribute the CPE between the services, but also between conventional and specialty services.

75. Today, CBC plans to not only use its audiovisual digital platforms for "catch-up" television, but also to commission new and innovative programming. For the policy reasons enumerated above, this requires recognition and oversight from the Commission. It also appears logical that the Commission treat CBC's digital services similar to the way it regulated discretionary and specialty services, and afford CBC flexibility to move CPE and PNI between traditional between television and digital.

76. In its public filings in the course of this proceeding, the CBC has provided no assurances on PNI or CPE commitments related to audiovisual digital platforms. Having regulatory oversight over CBC digital platforms will help reduce potential swings in programming expenditures, which are currently an issue on conventional English television. A group-based expenditure approach will ensure that PNI is properly funded, while giving CBC with significant flexibility on use as between digital platforms and services.

77. It is also DGC's belief that CPE on digital audiovisual platforms should be safeguarded by a condition of licence. As explained previously, based on our estimates, CBC's online CPE may be as low as private broadcasters' CPE.

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[28] Broadcasting Regulatory Policy CRTC 2010-167, A group-based approach to the licensing of private television services.
[29] Ibid, Para 45.

78. DGC submits that the Commission should require the CBC to adopt a group-based approach for conventional television and audiovisual digital services with CPE and PNI expenditures requirements expressed as a percentage of the previous years' revenues. The group approach would include all CBC's conventional television services such as the Doc Channel, CBC News Network as well as CBC's audiovisual online platforms, CBC's GEM and Tou.tv. Therefore, the DGC recommends the Commission to require:

CPE and PNI expenditure requirements

CPE

- A condition of licence with a 54% minimum CPE on both conventional television and audiovisual services[30];

PNI

- A condition of licence with a 21% minimum PNI on both conventional television and audiovisual services;

CPE and PNI Flexibility

79. CBC's audiovisual group should also have flexibility to attribute a portion of the required CPE for the conventional television services controlled by that group. However, as DGC attaches particular importance to CPE spending for conventional television services, this flexibility should be limited. Only a maximum of 25% of the required CPE for conventional television services should be attributable to any other qualifying digital service within CBC's audiovisual group. CBC should be required to report annually the attributed amounts and each of the service(s) to which they were allocated.

80. With the goal of reducing spending variations, DGC recommends that the CRTC to set a condition of licence applicable to CBC's stations group as a whole of a 5% under/over-expenditure of CPE/PNI. Such a condition of licence would provide predictability and a certain degree of stability over the course of the licence term. This condition of licence is justifiable and necessary as evidenced by the fact that private broadcasters are already subject to it, and as the CRTC previously explained: "particularly since the groups would already benefit from the additional flexibility to apply their spending across all of their services.[31]"

[30] The CPE base level calculation of 54% is the three years average of CBC's Aggregated Conventional Television Annual Returns for English-language stations.
[31] Broadcasting Regulatory Policy CRTC 2012-596, Revised policy for large broadcast groups regarding Canadian programming expenditure over-expenditures for conventional television and specialty services, https://crtc.gc.ca/eng/archive/2012/2012-596.htm

81. The condition of licence to broadcast 9 weekly hours of PNI on CBC's conventional English-language television should remain unchanged. The DGC's group-based approach should only apply to CBC's audiovisual services, excluding audio and news who are facing different challenges.

82. DGC's proposed group approach takes into account the Commission's concern that CBC's audiovisual content should be made available to all Canadians, including the population that does not have access to broadband internet. A group-approach would balance CBC's commitments between conventional and digital platforms, providing CBC with its desired flexibility to transition to online programming.

CPE and PNI reporting requirements

83. As CBC is currently reporting on conventional television expenditures for all its discretionary services in Canada, a new condition of licence should direct CBC to report in detail its Canadian programming expenses on its online audiovisual services by program categories and by service.

Defining CBC's revenues for digital media platforms

84. As the DGC is in favour of a group approach for CBC's audiovisual services with CPE and PNI expenditures requirements based on the previous year's revenue, the same revenue calculation methodology should be applied to both conventional and digital services.

85. DGC calculated current CPE for English-language television stations based on total revenues, comprised of advertising and other revenue sources in addition to allocations of CBC's parliamentary appropriation. As CBC currently reports digital media broadcasting separately, the Commission should direct CBC to apply the same approach to reporting the revenues for digital services. To be clear, for the purposes of CPE and PNI requirements, digital would be limited to CBC's audiovisual services, including the appropriate allocation of government funding, plus advertising revenues and any subscriber revenues.

86. This revenue calculation is the most logical way to calculate a CPE and PNI for CBC's digital media audiovisual services as it will allow clear reporting.

Original first-run programming

87. In response to a Commission question, the CBC proposed to amend the definition of "original, first-run Canadian programming", so it could be applicable to all platforms – licensed and exempt:

> "CBC may designate a Canadian program as "original, first run" if the program has not previously been made available by any other Canadian broadcasting undertaking to the public anywhere in Canada either by means of a linear broadcast or on an on-demand or digital basis, provided that if CBC/Radio-Canada contributed to a program's production financing with third parties, it can be counted as original first-run even if the third parties who contributed to its financing made it available on their platforms before it is made available on a CBC/Radio-Canada platform.[32]"

88. The DGC recognizes that opening up the definition of original, first-run Canadian programming has the value of encompassing CBC's total amount of commissioned Canadian programming, including production made with third parties. And as the CBC commissions content for both conventional television and online platforms, original, first-run programming should be reported only once depending on whether the exhibition takes place on conventional television or a digital platform so the program is not counted twice.

89. However, CBC's new expanded definition of original programming will not be comparable with the Commission's initial definition (available in the Broadcasting glossary) and adopted by all private broadcasters. In order to have an effective policy, the DGC recommends the Commission to require CBC to continue reporting original programming based on the first and commonly used definition.

90. In addition, CBC should be able to, as proposed, track and report original programming distinctly on CBC's French- and English-language television network and online platforms based on CBC's expanded new definition. We encourage CBC to adopt new funding models, which may include it contributing to financing and taking a first window after an OTT play.

91. Early January 2020, CBC announced a new GEM original young adult science-fiction drama called Utopia Falls[33]. The 10 one-hour episodes will be available exclusively on the free CBC GEM streaming service starting February 14. Utopia Falls represents CBC's commitment to offer expanded content for younger audiences and the capacity to produce a bigger budget in partnership with a US company (Sonar Entertainment). Such a program should be reported as original programming for CBC's digital platforms, and not merged with CBC's English television original programming.

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33 https://www.cbc.ca/mediacentre/press-release/new-cbc-gem-original-young-adult-sci-fi-drama-utopia-falls-launches-all-epi

92. The DGC agrees with the Commission's determination in the Create Policy that original first-run Canadian productions add more value to the system; excessive repetition and recycling of programming does little to achieve the objectives of the Act.

F. Production of Canadian programming

93. The DGC notes CBC's general lack of commitment towards specific underserved genres such as children's programming, long-form documentary and feature film throughout the last and current licence terms. These genres form the heart of programs of national interest. To further DGC's proposed group approach, the CRTC should set appropriate individual expenditure requirements by genre for both CBC conventional and digital television platforms.

94. Even though the DGC believes a group-based approach with expenditures requirements is the most appropriate licensing approach for CBC, existing conditions of licence for exhibition requirements should be maintained for conventional English television, especially the two weekly hours dedicated to long-form documentary and drama and comedy, and the 15 hours per week hours of children's programming[34]. For long form documentary, the current under-expenditure allowance of 10% per year for Documentary Channel[35] should be replaced by the 5% under-expenditure on CPE/PNI applicable to the whole group.

Feature films

95. The DGC notes that feature films are not mentioned CBC's supplementary brief, as was previously the case in the 2012 licence renewal when the CBC provided no commitment to support English-language Canadian feature films. In various past submissions, industry guilds and unions have underlined the fact the Canadian film industry is facing a funding crisis because in general broadcasters no longer appropriately support Canadian feature films. The lack of attention on this genre comes after a gradual erosion of CBC's support for feature film to the point that there is *no public reporting in place for feature film at all,* and yet at the same time as government has increased funding to Telefilm. Even more worrying is that while CBC has a discoverability strategy for French-language feature films, the Corporation openly recognizes its disengagement from

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[34] Broadcasting Decision CRTC 2013-263, COL 19: The licensee shall broadcast a minimum of 15 hours per week, averaged over the broadcast year, of Canadian programming aimed at children under 12 years of age. Of these 15 hours, a minimum of one hour, averaged over the broadcast year, shall be devoted to original Canadian programming.

[35] Broadcasting Decision CRTC 2013-263, Conditions of licence for the English-language Specialty Category A service Documentary, COL 6

supporting English-language feature films: "*Given our approach, there are no plans to launch an equivalent fund to CBC Films.*[36]"

96. Such a response is completely unacceptable.

97. In its questions to CBC of October 30, 2019, the CRTC points out multiple apparent non-compliances with regarding condition of licence 22 for English convention television network and stations regarding the broadcast of feature films. The condition of licence states that "during each broadcast month, the licensee shall broadcast a minimum of one Canadian feature film drawn from category 7(d) Theatrical films aired on TV". While there may be occasional issues about classification of category (7(d) theatrical films aired on TV, a broadcast month should be pretty clear and unambiguous.

98. The proximity to the United States and Canada's relatively small population necessitate important safeguards and support mechanisms for all Canadian content and especially feature films, relegated as the last priority in public policy. Across Europe, and especially in France, television is the primary sector that provides this much-needed support. All French television channels, regardless of the platform (terrestrial, cable or satellite), whose main objectives is not the broadcast of cinematographic works and who broadcast at least 52 feature films each year have to invest a minimum of 3.2% of their revenues from previous year in European works, while 2.5% of the revenues should be dedicated to original French feature films. Three quarters of the expenses devoted to pre-licencing and to coproductions must observe these criteria[37].

99. Over the years, the CRTC has made several decisions that could have promoted and spurred film production and access to theatrical features for Canadian audiences. A strong regulatory regime for feature films is the most effective way to support this genre, however the Commission's decisions have not been implemented in a manner that would support the sector.

100. As the Standing Committee on Canadian Heritage stated in 2015, there is an "absence of a broadcasting policy to support the promotion of Canadian feature films.[38]" All the elements of the broadcasting system should, as the Broadcasting Act says, "… contribute in an appropriate manner to the creation and presentation of Canadian programming." The evolution of the feature film industry in Canada versus the television industry has demonstrated that the taxpayer funds are only a part of a solution that should be complemented with strong regulatory mechanisms.

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[36] CBC's October 30, 2019 response letter to the CRTC, #DM3754953

[37] https://www.cairn.info/revue-economie-et-prevision-2009-2-page-101.htm

[38] Scripts, Screens and Audiences: A New Feature Film Policy for the 21st Century, Report of the Standing Committee on Canadian Heritage, Nov. 2005.

101. In the past, the DGC has advocated increasing private broadcaster PNI percentage contributions by 1%, for the benefit of production of theatrical film and long form documentaries.

102. While the share of Canadian films in theaters in Canada remains low, given the historic low commitment from private broadcasters, CBC should be investing in feature films as this is the public broadcaster's role. If CBC does not support and provide visibility to this genre, we can legitimately ask who else would at a time where the main Canadian theater chains focus their programming on profitable blockbuster-sized movies. Moreover, as reports commissioned by Telefilm Canada have demonstrated that feature films are increasingly being watched online, a cross platform (conventional + digital) CBC commitment would make sense.

103. In 2018, 7.3% of total CBC English conventional TV PNI spending went to Canadian films (categories 7c and d). These categories are:

c) Specials, mini-series, and made-for-TV feature films;
d) Theatrical feature films aired on television;

104. In its PNI reports, both for CBC television and Radio-Canada, CBC indicated that feature films represented only 3.5% of English-language television PNI in fiscal 2013-2014 and remained at 0% until 2017-2018. In consequence, we can estimate that CBC spent more in category c) than d).

105. The CRTC decided not to require private broadcasters provide audiences access to Canadian produced feature films. Pay television services as well as CBC are now only subject to an "expectation" for feature films.

106. In light of the above, the DGC makes the following recommendation for the CRTC to obtain commitments from CBC to support feature films both financially and through promotion:

Expenditure requirements

- Imposing a condition of licence so that the CBC commits to spend 5% of CBC's English group revenues (which will include conventional television and online platforms) on feature films. This spending obligation would contribute to CBC's overall group PNI requirements.

Exhibition and promotion requirements

- Imposing a condition of licence for the exhibition of **four** feature films on English-language conventional television each month;

- Specify that 75% of feature films to be broadcasted must be new and "original".

Reporting requirements

- Imposing a condition of licence for the reporting on feature film expenditures on both conventional television and digital platforms;

107. In the last licence renewal process, the CBC committed to spend $30 million on the production, acquisition and promotion of Canadian feature films. DGC is unable to determine if the CBC has met this expectation. We respectfully ask the CRTC to mandate the CBC to dislose its expenditures on feature films during the course of the current licence term and before the May 2020 public hearing.

G. General approach to online measurement

108. At a time when CBC is ramping up its programming efforts for GEM and Tou.tv, clear reporting requirements are necessary to improve and adapt regulation to online platforms. CBC already uses a set of measurement metrics internally for its digital platforms and the DGC submits that measurement data in an aggregated form should be made public. For example, CBC currently measures success online through several key performance indicators (KPIs), including reach, engagement and visits.

109. CBC justifies the lack of proper measuring requirements by the limitation of the current Broadcasting Act:

> *"Since we do not know when or how the statute will be modified, we cannot provide a meaningful set of suggestions for that form of future regulation[39]"*

110. However, CBC has been providing and measuring the performance of programs online for years. And if CBC has been doing so, it has to be permissible under the current Act. CBC arguing that online platforms should not regulated while unveiling an ambitious programming strategy for GEM is a complete inconsistency. Appropriate regulation of online platforms starts with the right measuring tools.

111. CBC's position follows Canadian private broadcasters' earlier refusal to provide a cross-platform audience measurement system despite the fact that CBC is shifting more and more resources to digital as demonstrated by CBC content-related projections.

112. Broadcasters repeated refusal to share viewership data and enter discussions with the CRTC led to the implementation of the measurement system being postponed. This

[39] Source: CBC's application

measurement system was first discussed during the Let's Talk TV proceeding in 2014. The DGC submits that the CBC should at least offer to first develop a pilot-measurement framework for its online services. As a principle for regulation, what gets measured gets done.

113. Morerover, the availability of content online is not a sufficient metric nor should it be the only one. CBC has access to a wide array of metrics and is able to effectively measure users' interactions with online content to inform programming strategies and fine tune the investment in Canadian content online. CBC/Radio Canada cannot be held accountable either to the CRTC or Canadians if there is no adequate reporting in place.

114. The DGC believes that a new measurement framework even if incomplete would be a first step towards more transparency. Such a project could be improved over time and would require the input of all stakeholders/parties (CRTC, public funders, and independent producers).

H. Conclusion

115. In the current context of the legislative review of the Broadcasting and Telecommunications Acts, the DGC finds it appropriate to grant CBC a five-year licence term. If the Commission was to decide not requiring conditions of licence on CBC's digital audiovisual platforms, the DGC recommends a shorter licence term of three years. The DGC restates the primacy of PNI in CBC's licensing framework and programming strategy, as this type of programming is responsible for "high-standard" and distinctive programming. As the January 2019 BTLR report stressed: taking creative risks should be part of CBC's mandate.

116. It is DGC's view that CBC should continue to serve the public interest and provide diverse programming that will distinguish itself from the private market and act as a differentiator. In essence, CBC should remain a window on the Canadian experience and Canadian creative expression.

117. The DGC, among other interveners, is concerned by CBC's lack of transparency in reporting, especially the lack of data about CBC's digital programming activities and the absence of a full strategic plan. To achieve clarity and accuracy in this proceeding, the DGC respectfully asks the CRTC to require CBC to release its full strategic plan as this will serve to develop an adequate licensing framework which will include CBC's digital audiovisual platforms.

118. The DGC believes that CBC's accountability and transparency are essential to achieve its mandate but also to guarantee stable funding from government sources in the future.

CBC currently has fewer regulatory requirements than private broadcasters both for conventional and digital platforms. The DGC respectfully submits that the Commission should require CBC to provide the following financial numbers in the course of this proceeding to better understand CBC's digital activities:

a. Detailed financials on its digital audiovisual activities, by service, program genres and French- and English-language markets. CBC should also make a distinction between general content expenses and Canadian content expenses, and audio and audiovisual expenses;

119. For this new licence term, the DGC recommends that the CRTC revise its approach on the regulation and reporting of CBC's digital expenses including setting a condition of licence for CBC to report on financial data from each of its digital audiovisual platforms, by genre.

120. While CBC remains a champion for Canadian content, Canadian content expenses reported in CBC's application present significant fluctuations in PNI expenditures year over year for conventional English-television. These systemic variations combined with the complete absence of data for CBC's digital activities necessitate a new comprehensive licensing framework encompassing CBC's traditional television and digital audiovisual activities.

DGC's proposed group expenditure approach for CBC

121. The DGC submits that the CRTC should make CBC transition into a group-based expenditure approach for all of its audiovisual services and platforms, including conventional and online and television stations such as Doc Channel, CBC News Network and CBC's audiovisual online platforms CBC's GEM and Tou.tv. The group should be subject to expenditure requirements based on the CRTC's expenditure methodology[40]:

CPE

- A condition of licence with a 54% minimum CPE on both conventional television and audiovisual services[41];

PNI

- A condition of licence with a 21% minimum PNI on both conventional television and audiovisual services.

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41 The CPE base level calculation of 54% is the three years average of CBC's Aggregated Conventional Television Annual Returns for English-language stations.

122. The DGC recommends that the CBC track and report original programming distinctly on CBC's French- and English-language television network and online platforms based on CBC's expanded new definition.

Canadian programming

123. Given the fact that conventional television remains the primary way Canadians access CBC's programming, the DGC recommends that the Commission preserve the condition of licence for PNI exhibition hours on conventional television, at 9 hours per week, as per condition of licence 19[42], devoting 2 hours to long-form documentary and drama and comedy.

124. In addition, the DGC recommends the Commission maintain the condition of licence for the English-language Specialty Category A service documentary Channel that CBC seeks to eliminate, namely the requirement to devote at least 75% of the evening broadcast to Canadian programs.

125. The DGC disagrees with CBC's proposed amendment on children and youth programming on CBC TV and recommends that the current condition of licence[43] be maintained, with a minimum 15 hours a week of Canadian content. In the meantime, the DGC supports CBC's proposal to change the definition of child to someone under 13 years-of-age.

126. On original programming, as the CBC currently does not report the number of total or original broadcast hours of Canadian programming targeting children and youth, the DGC proposes that CBC is required to provide:

- detailed weekly reporting on Canadian programming hours and expenditures targeting children and youth on CBC's conventional television and CBC's audiovisual online platforms.

DGC's proposed conditions of licence for feature film

127. The DGC proposes a new set of conditions of licence targeted at feature films with expenditure requirements requiring CBC to commit at least 5% of CBC's English group revenues (which will include conventional television and online platforms) on feature films.

128. In addition, the DGC proposes exhibition and promotion requirements for the exhibition of feature films on English-language conventional television; specifying that 75% of feature films to be broadcasted must be new and "original".

[42] Broadcasting Policy 2013-263, Appendix 3, COL 19.
[43] Broadcasting policy 2013-263, Appendix 3, COL 20.

129. Finally, the DGC submits that CBC should be subject to reporting requirements on feature film expenditures on both conventional television and digital platforms.

130. The DGC urges CBC as the national public broadcaster to set up an online measurement framework and report specific metrics from digital platforms in an aggregated form as this will benefit the industry as a whole.

131. The DGC appreciates the opportunity to provide comments in this important proceeding. Given the pivotal importance of this proceeding and the regulatory issues it raises, the DGC wishes to appear at the public hearing in May.

All of which is respectfully submitted.

Directors Guild of Canada

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