



**Quebec English-Language
Production Council**

**Conseil québécois de la
production de langue anglaise**

October 19, 2020

Claude Doucet
Secretary General
Canadian Radio-television and Telecommunications Commission
Ottawa, Ontario
Canada, K1A 0N2

Dear Secretary General,

RE: BNC CRTC 2020-336

**Call for comments on an application by the Canadian Association of
Broadcasters requesting regulatory relief for Canadian broadcasters in regard to
the COVID-19 pandemic**

1. The Quebec English-language Production Council represents the official language minority (OLMC) film and television production industry in Quebec, including most independent Quebec producers of English-language programming, as well as ACTRA Montreal. We represent approximately 80% of those working in the OLMC industry.
2. If there is a public hearing concerning Notice of Consultation CRTC 2020-336, we would like to participate.

3. We understand that broadcasters need additional flexibility in their conditions of licence (COL) to help meet the loss of advertising revenue caused by COVID-19. However, we oppose the CAB request that:

“ In light of the exceptional circumstances of COVID-19, the CAB proposes that the Commission introduce, as an emergency measure, a policy of *deemed compliance* in respect of expenditure requirements, along with other appropriate regulatory flexibility measures, for the 2019-2020 broadcast year.”¹
4. The problems facing the Canadian broadcasting system are complicated and long-standing. They have been exacerbated by COVID-19.
5. First, the foreign over-the-tops (Facebook, Netflix, Google, etc) have been disrupting the broadcasting system, and undermining national control of our market, for years. There has been little or no effective regulatory oversight. The DMEO² has long proven itself an inadequate response to this ever-growing threat to our cultural sovereignty.
6. We look forward to a revision of the Broadcasting Act promised by the Minister of Canadian Heritage. We hope this long-needed legislation will prove adequate to deal with the existential threat posed by the OTTs.
7. Second, official language minority community (OLMC) production in Quebec has been in decline for a generation. Following the CRTC’s controversial 1999-97 TV policy, English-language TV production, and talent, began an exodus from Quebec. That exodus continues.
8. Prior to 2000-1, Quebec OLMC production averaged 24% of total English-language production in Canada. After 2000-1, Quebec OLMC production has averaged 12% of total Cancon. Quebec OLMC production has fallen from a peak of \$306 million in 1999-00 to a nadir of \$128 million in 2015-

¹ Gibson, Lenore, Chair, CAB, to Sec.-Gen., CRTC, “Emergency application to address extraordinary impacts of COVID-19 on private broadcasters – Request for clarification of CRTC emergency regulatory flexibility and forbearance for the broadcast year ending August 31 st , 2020”, July 13, 2020, #19

² Digital Media Exemption Order was first established in CRTC 1999-197, and amended in CRTC 2012-409

16, or 7% of total English Cancon. Our next lowest year was \$135 million in 2017-18. See appended Table 2.

9. Third, the pandemic has negatively affected the production industry as well as broadcasters. According to a report commissioned by CMPA, there would be an estimated loss of \$773 million in Cancon production in the first 3.5 months of the pandemic (mid-March through June), plus an additional loss of \$1.8 billion in foreign service production.³
10. This is an immense loss of more than 90% of independent TV production. Canadian content losses were estimated to be \$220 million per month from the start of the pandemic in an industry that produced an average of \$240 million per month the year before.⁴
11. Finally, broadcasters and producers have a symbiotic relationship. We are part of the same industry and we accept that our broadcast colleagues need relief to help them deal with the impact of COVID-19, especially the advertising-based sector. CAB's July 13th letter indicated that they expected a loss of 40-50% of advertising revenues through August, and significant, but not necessarily as high, decline over the course of 2020 and 2021.
12. Yet, we don't have enough information to accept such a radical and blanket proposal as "deemed compliance" for all broadcasters. That proposal will certainly do unprecedented damage to an already weakened production industry.
13. The information we do have suggests that more targeted relief would be appropriate. For example, while total advertising has declined, TV news viewing has increased.⁵ We do not know the extent to which subscriber

³ Nordicity, *COVID-19 Impact Analysis, Employment at Risk due to Shutdowns in the Screen-based Media Production Sector*, April 8, 2020

⁴ See CMPA-AQPM, *Profile 2019*, p.4 and Ex.1-1, \$2.89 billion in TV production in 2018-9.

⁵ Op. cit., Gibson, #6 and fn.3.

revenues may have declined or increased. BCE and Rogers also have healthy telecommunications revenues.

14. We are unsure of the differences in the financial circumstances of advertising-based conventional TV and radio, subscriber and advertising-based discretionary services, vertically integrated national broadcasters, companies that include telecommunications services, and local broadcasters. Some broadcasters (and producers) may be facing bankruptcy.

15. However, the broadcasters do have support mechanisms already in place. The Government's COVID-19 relief programs have been substantial to date, and continue. Furthermore, as private broadcaster revenues decline, their Canadian programming obligations will also decline. CPE is based on revenues calculated from the previous year and CPE or PNI obligations will decline as revenues decline.

Conclusion

16. In short, we oppose the request for "deemed compliance" on behalf of all private broadcasters. It is both too broad and too damaging to the production industry, especially underrepresented groups such as ours⁶.

17. We completely agree with the analysis of the Commission when it says:

"13. The Commission regulates and supervises the Canadian broadcasting system in the public interest. Through its policies, licensing and regulations, the Commission ensures that the policy objectives outlined in section 3(1) of the Broadcasting Act are met. These policy objectives speak broadly to the financial contributions that should be made by broadcasters, given their relative capacities to do so, and the manner in which these activities should benefit Canadians

⁶ "Underrepresented Groups" may include OLMC/CLOSMs (English and French official language minorities), B-POCs (black and people of colour), Indigenous, LGBTQ+, people with disabilities, and women. We represent the official language minority in Quebec.

generally, including Canada's creative sector, as well as Canada's political, social and economic fabric.

14. In considering the CAB's application, the Commission is mindful that, in its regulatory activities, it must balance what are often divergent interests of multiple stakeholders. For instance, many of the financial requirements that are the subject of the flexibilities sought by the CAB represent important elements of funding for Canadian audio and audio-visual programming. Such funding directly benefits Canada's creative and artistic communities, which have themselves also experienced deep negative impacts from the pandemic.

15. Moreover, the Commission is mindful that these financial requirements are calculated based on the previous year's revenues, and, as is the case for Canadian programming expenditure requirements, are already subject to year-over-year flexibilities that permit the carrying over of under-expenditures into subsequent broadcast years. As a result, granting the relief sought by the CAB would, in effect, compound the impact on contributions to Canada's creative and artistic sectors, which are very likely to decrease in absolute value in the 2020-2021 broadcast year, with many requirements, including those relating to making up for underspending in the 2019-2020 broadcast year, being lost to the broadcasting system."⁷

18. We recommend that broadcasters should request COVID-19 relief on a case-by-case basis.

19. We recommend that the nature of that relief should be an extension of time allowing them to fulfill their CPE, PNI, and tangible benefits conditions of licences (COLs). We oppose the elimination of those obligations.

Thank you.

⁷ BNC CRTC 2020-336, #13-15

Yours truly,

A handwritten signature in black ink, appearing to be the name 'K Cox'.

Kirwan Cox
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cc- Sylvie Bissonnette, CAB, VP Finance and Admin., sbissonnette@cab-acr.ca

TABLE 2
English-language Domestic Production
by Region
1996-97 to 2017-18
(\$ millions)

Year	Quebec			Ontario			B.C.			Prairies			Atlantic			Total English		
	#	Can. Cost	%	#	Can. Cost	%	#	Can. Cost	%	#	Can. Cost	%	#	Can. Cost	%	#	Can. Cost	%
1996-97	71	\$201	24	212	445	52	48	128	15	37	33	4	26	43	5	394	850	100
1997-98	74	240	27	181	472	53	56	96	11	43	50	6	25	37	4	379	895	100
1998-99	89	304	23	228	554	42	81	318	24	52	64	5	39	87	7	489	1,327	100
1999-00	91	306	22	241	609	45	90	305	22	63	92	7	38	55	4	523	1,367	100
2000-01	69	184	15	283	541	45	99	299	25	79	90	8	39	80	7	569	1,194	100
2001-02	75	211	17	326	694	56	92	206	17	74	79	6	41	58	5	608	1,247	100
2002-03	85	189	14	333	679	52	100	223	17	98	152	12	49	67	5	665	1,309	100
2003-04	92	169	14	337	726	60	98	188	16	85	72	6	43	58	5	655	1,213	100
2004-05	101	163	13	333	657	53	117	230	19	116	115	9	41	69	6	708	1,236	100
2005-06	102	191	14	356	752	54	119	278	20	109	89	6	42	73	5	728	1,382	100
2006-07	110	214	14	365	715	47	147	374	24	107	153	10	36	72	5	765	1,528	100
2007-08	95	182	12	377	791	52	129	356	23	113	146	10	39	61	4	753	1,536	100
2008-09	86	195	12	380	853	54	137	303	19	96	175	11	48	67	4	747	1,593	100
2009-10	71	242	16	334	894	59	112	192	13	101	113	7	39	76	5	657	1,516	100
2010-11	70	174	11	343	993	63	114	240	15	84	109	7	29	66	4	640	1,582	100
2011-12	66	165	8	356	1,288	65	111	324	16	111	124	6	51	88	4	695	1,988	100
2012-13	71	154	9	327	1,051	61	137	364	21	83	84	5	31	67	4	649	1,720	100
2013-14	70	187	10	333	1,130	60	132	375	20	91	107	6	41	96	5	667	1,895	100
2014-15	63	211	11	345	1,157	60	142	408	21	81	100	5	32	56	3	663	1,933	100
2015-16	62	128	7	346	1,191	62	146	403	21	94	107	6	30	80	4	678	1,909	100
2016-17	80	214	10	314	1,229	58	144	484	23	80	120	6	35	89	4	653	2,136	100
2017-18	61	135	8	291	1,062	60	120	358	20	82	127	7	39	104	6	593	1,786	100

Source: Estimated from CAVCO CPTC data, Spring 2019

Notes: Numbers from more recent years are subject to change.

CAVCO numbers reflect applications it has received for CPTC accreditation with principal photography start dates in the listed fiscal year.

are projects, and totals may not add due to rounding.

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