



**Broadcasting Notice of Consultation
CRTC 2019-379**

Renewal of the broadcasting licences for English-language audio services; French-language audio services; English language audio-visual services; French-language audio-visual services

**Application numbers: 2019-0280-0; 2019-0279-2; 2019-0282-5;
2019-0281-7**

**Oral Remarks of the
Public Interest Advocacy Centre (PIAC)
and
National Pensioners Federation (NPF)**

26 January 2021

Oral Remarks

[Check against delivery]

[John Lawford, PIAC]

1. Good morning Mr. Chair, Madam Vice-Chair and Commissioners.
2. My name is John Lawford and I am Executive Director and General Counsel at the Public Interest Advocacy Centre; with me from PIAC is Pam Dhery, PIAC counsel. Also presenting is Ms. Trish McAuliffe, President, National Pensioners Federation.
3. Both PIAC and NPF have mandates to represent and advocate for the interests of Canadian consumers and NPF in particular for Canadian seniors. We advocate for consumer choice, variety, value and privacy safeguards in broadcasting.
4. Canadians, who we call “citizen-consumers” in this context, also have a profound and important interest in Canada’s National Public Broadcaster, CBC.
5. You and your colleagues are considering the renewal of CBC’s French- and English-language audio and audiovisual licences. PIAC is focusing on CBC’s English-language services.
6. The Commission is also considering something bigger: the best path for CBC towards achieving the best practices of public service broadcasters.

[Pam Dheri, PIAC]

CBC is losing money on digital; this loss leads it astray

7. The CBC is losing money on its efforts to transition from linear broadcasting to digital platforms. Indeed, CBC, after some arm-twisting, revealed projections of spending over \$1 billion from last fall until into 2023 on digital services of all kinds.
8. Projected revenues from digital for this period is forecast at \$228.5 million, a nearly \$800 million loss.
9. This move to digital services (exempt or not) puts pressure on CBC and leads its management to take it astray in these ways:

- i) CBC requests a 'floor' of reduced hours of original programming of all kinds as new conditions of licence; and, importantly, the conversion of roughly the current licensed hours into "expectations", which can be shown on either TV or digital;
 - ii) CBC launches Tandem, a stealth advertising product using their news announcers, without consulting anyone and shocking Canadians and their own current and former journalists, all for additional revenue;
 - iii) CBC asks for "flexibility" to "compete" by moving money from linear TV to digital services but argues that this massive investment in digital should still be undertaken while enjoying exemption from its licensing, under the DMEQ.
10. In our view, CBC's current applications show this confusion of purpose and goals, with the result that PIAC-NPF, as representatives of consumers, are here to ask the Commission to resolve this problem in the public interest.
 11. Our main concern is that CBC will beggar its conventional broadcasting service to fund its risky, maybe necessary, but not clearly thought out, "Your Stories, Taken to Heart" plan.

How Flexibility (Reducing Programming Hours) Hurts Seniors

[Trish McAuliffe, NPF]

12. Seniors make up 6.8 million people in Canada, or nearly 1 in 5 people. The CBC's request to reduce original programming hours on conventional (linear) TV will hurt our members, who will suffer a decreasing level of news and entertainment, see more re-runs and have less choice of programs. They care that their grandchildren will see children's programming with more re-runs and of lower quality.
13. Many seniors are tech-savvy and use the Internet on home computers, tablets, smart TVs and other devices. But the fact is that they use them less than other age groups and may have difficulty with a 'jump cut' to an all-digital service, with new logins, just to get new, innovative or interesting content CBC should be showing on all platforms, especially television, which you just turn on.
14. In addition, many seniors have fixed incomes and although they rely on Internet, many have difficulty affording the very expensive Internet packages with adequate bandwidth for the "over the top" broadcasting such as that on Gem. Even if seniors do buy TV and Internet bundles, the CRTC's own Sales Practices Report states seniors often are targeted with packages that don't meet their needs. A small but important group still simply tunes in over the air. Seniors in many remote and rural areas don't have a choice and must tune in over the air, because broadband isn't even available yet or is not fast enough where they live to show online TV.

15. The CBC is Canada's national public broadcaster. It must be required to satisfy that requirement for the whole public, including seniors, whose tax dollars over many years have built the CBC.

How the CRTC Can fix the Problems

[John Lawford, PIAC]

16. Many participants in the proceeding have laid out a litany of complaints about how CBC's secretive shift to digital, without adequate conditions, regulation, oversight and reporting will hurt their business, reduce democratic discourse, or impoverish their viewing and listening experience. This CBC plan is therefore in conflict with other interests in the Canadian broadcasting system, which the Commission can fix by prioritizing the public interest, not blessing the CBC's fever dream of out-Netflixing Netflix.
17. The CRTC can fix these conflicts and confusion. Here is how.
18. First, when CBC sounds just like a private broadcaster, remind them that subs. 46(1) and subs. 3(1)(l) and (m) say CBC must provide radio and television programming and, if the steps said to advance these goals conflict with other interests in the broadcasting system, subs. 3(1)(n) says the public interest shall determine how to resolve the conflict.
19. Second, to permit CBC its desired "flexibility" to experiment with digital, consider endorsing PIAC-NPF's "Fundamental PSB Principles and Mandate", which will allow CBC to achieve its statutory mandate across linear and digital, all while requiring the CBC, via conditions of licence, to build on a base of rules for its traditional licensed services, which are the only services at issue here. This issue is linked to the CanCon and DMEO debate.
20. Third, measure CBC's performance, retrospectively and prospectively, on an ongoing basis, of its achievement of licence conditions and expectations, as well as assess incremental achievement of its mandate. Then, report the result of these metrics before the next licence renewal so the CRTC and Canadians have a transparent, common, and complete, set of objective data to consider.
21. Fourth, consideration of digital media should be left to coincide with Bill C-10 implementation or DMEO reconsideration, or both. Therefore, we revise our initial recommendation of a five year licence renewal and we now recommend that the Commission review the licences granted after this hearing after 2 years (to line up with implementation of changes outlined in Bill C-10, and any adjustment of the DMEO). Only at that time, when digital rules are clear for all, should the Commission set out digital rules or expectations for CBC, including CanCon, to align them with all other broadcasters.

22. Fifth, to make sure another Tandem situation never arises, the Commission should make as a condition of licence, and recommend to Parliament that Bill C-10 be amended to include, an *ex ante* public benefit test when CBC seeks to launch a digital new “product” or “service” to its mission, whether this product or service is likely to be “exempt” or not.
23. We note that the *ex ante* public benefit test is a best practice in six of nine PSBs, as noted in the benchmark Cullen Study of international public service broadcasting.

Conclusion

24. In conclusion, we urge the Commission to become, from now on, CBC’s guide as it finds its place in the digital future. The best way to do this is to establish metrics and reporting frameworks to set it on a better path towards achieving best practices of public service broadcasters.
25. Thank you for the opportunity to appear before you today and we welcome your questions.

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