



March 1, 2021

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

**Re: Broadcasting Notice of Consultation CRTC 2019-379-3 – Licence renewals for the Canadian Broadcasting Corporations English-language audio-visual services, Final reply by the Friends of Canadian Broadcasting (FRIENDS)**

Dear Mr. Doucet,

FRIENDS wishes to thank the Commission for engaging so thoughtfully and intelligently with our intervention in the CBC license renewal proceedings.

As the process comes to a close, we thought it would be helpful to zoom out from the technical morass and re-center our thoughts on the central questions at hand.

At first glance, it appears as though the main issue in these proceedings has been the Commission's role in supervising and regulating CBC's digital activities. The Commission has already heard our view that CBC should be subject to cross-platform expenditure requirements that reflect the way the Corporation actually works. We must not dismiss transparency as a relic of the analogue age.

But the question of regulating digital is not just about the mechanics of regulation. It is fundamentally a question of trust. The real question before us is whether Canadians and the Commission can trust CBC/Radio-Canada to prioritize public service absent clear, comprehensive regulation which compels them to do so.

The answer is unambiguously "no", especially when considering the behaviour of the present management team during these proceedings and beyond.

Management's posture towards the Commission was frankly shocking; not just aggressive but also disrespectful, bordering on disdainful.

In its final undertakings, management all but dared you to regulate the Corporation's digital activities, suggesting all manner of calamities that would arise were you to do anything more than merely monitor their digital activities, and even then, they contest your jurisdiction to do so.<sup>1</sup>

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<sup>1</sup> This started with the Corporation's refusal to provide meaningful disclosure about its digital activities in its Application, something that only started to change with the Corporation providing aggregate digital revenue and expense information on June 12, 2020, in response to a Commission information request. It continued with Counsel arguing during the proceeding that, to impose requirements on the Corporation's digital activities, the Commission would need to amend the Digital Media Exemption Order (DMEO), and that "reopening the DMEO would require a full public consultation" and "CBC/Radio-Canada is not a class of undertaking, so that an approach that would separate CBC/Radio-Canada either by excluding CBC/Radio-Canada from the existing DMEO or doing something would appear to run con-

Management's representations to you also contained many patently false statements. Ms. Tait told the Commission that the public has not complained about Tandem, even though FRIENDS sent her a petition signed by more than 16,000 Canadians, calling for Tandem to be stopped. FRIENDS mentioned this in our opening remarks on January 18<sup>th</sup> and this correspondence is attached as Appendix 1, for added certainty. Ms. Tait further claimed that the CBC logo does not appear on Tandem articles even though it clearly does.<sup>2</sup> In the example depicted in Appendix 2, the CBC logo is the *only* visible logo after you scroll down.

Ms. Tait also claimed that the quality of news programming at the local and national levels has not been impacted by budget reductions, yet FRIENDS has obtained a record of correspondence between CBC journalists and Ms. Tait, wherein the journalists tell Ms. Tait that she "misled the CRTC" in this regard. The signatories convey their desperation, say that quality has "deteriorated significantly", and that they cannot do their jobs with the resources allotted. The complete record is publicly available on FRIENDS website and we encourage you to read it in full.<sup>3</sup>

Management claimed that Canadian content spending has been steady when in reality it is falling.<sup>4</sup> They claimed that local spending was unchanged when we now know that there have been declines across the board, particularly in English TV, where local spending has plummeted in recent years.<sup>5</sup>

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trary to not only the purpose of section 9(4) of the *Broadcasting Act*, but it might be outside the scope of the section." (Transcript, Volume 1, paras 182-184.) This outrageous attitude was reiterated in the Corporation's February 3, 2021 reply to undertakings (at para 4) in which, instead of providing meaningful comment and practical insight into the cross-platform expenditure approach advocated by FRIENDS and others, the Corporation argued that the "only practical approach would be to treat all of CBC's online activities as a single undertaking and issue a single licence to the Corporation for CBC Digital Services; and, take the same approach with respect to Radio-Canada's online activities", an entirely different scheme, that would at minimum require the CRTC to "carve out" the Corporation's digital programming services from the DMEO. Not only did the Corporation raise a brand new scheme towards the end of this process that has no basis in prior Commission precedent, the Corporation's underlying claims are false in both law and regulatory practice. Were the Commission to carve out the Corporation from the DMEO, it could clearly be done on the basis of application to the "class" of public broadcaster, given that term is undefined in the Act. Section 46 of the Act defines broad powers and objects for the Corporation "for the purpose of providing the programming contemplated by paragraphs 3(1)(l) and (m)" (the Corporation's policy objectives) "in accordance with the conditions of any licence or licences issued to it by the Commission". The Corporation's power to provide digital services falls under this section, thus inviting, if not requiring CRTC oversight through conditions of licence given that these activities have grown to represent over 20% of operating expenses and approximately 19% of total parliamentary appropriations. Moreover, the Corporation's own proposal was to employ a cross-platform regulatory approach (one based on exhibition) without it ever arguing the need to amend the DMEO, and the Commission itself specifically contemplated a cross platform expenditure approach without amending the DMEO in 2019 (Broadcasting Notice of Consultation CRTC 2019-91). **There can be no logical explanation for the Corporation's obviously incorrect and disingenuous argument, other than management effectively daring the Commission to do its job, by throwing up as many boogymen and roadblocks as possible.**

<sup>2</sup> See for example, <https://twitter.com/CitizenTalin/status/1358152429817200643> [Accessed 27 February 2021].

<sup>3</sup> "Journalists concerned over quality of CBC News" <https://friends.ca/workspace/uploads/documents/cbc-quality-complaints-redacted.pdf> [Accessed 1 March 2021].

<sup>4</sup> For example, CBC Annual Aggregate Returns demonstrate that English TV Canadian programming expenditures have dropped precipitously from a high of \$492 million in 2014 to a low of \$223.8 million in 2020. On a percentage of revenue basis, they dropped from 68.6% in 2014 to 45.7% in 2020. Also notable is that actual Canadian programming expenditures were far lower than those filed by the Corporation in its projections – \$246.4 million in 2019 and \$223.8 million in 2020 versus projections of \$263.6 million (7% difference) and \$250.4 million (12% lower) in those years.

<sup>5</sup> Appendix C to the Corporation's February 3, 2021 reply to undertakings confirms that total local programming expenses on all platforms (TV, radio, digital), in both languages, has declined from \$294 million in 2014 to \$259 million in 2020. TV local programming has been more than halved – from \$181 million to \$83 million, the bulk of which has been to English TV. While station produced TV news expenses for Radio-Canada have remained relatively steady, those of CBC English TV have dropped over 60%, per note 9 infra.

On several occasions during these hearings, Chairman Scott said that “what gets measured gets done”. Unfortunately, this appears to be demonstrably untrue with respect to Ms. Tait’s leadership team. Quite the contrary, the evidence suggests that it may be more accurate to say that “what gets measured may well be misrepresented to the Commission.”

The Corporation asks for “flexibility”, in digital and elsewhere, by which they mean free rein. How can the Commission grant them the hands-off approach they seek when the management team has been so frequently and overtly untruthful? Mere monitoring is clearly insufficient; unflinching regulation is required.

In our opening remarks on January 18<sup>th</sup>, FRIENDS cited the Commission’s bold 1974 decision to remove ads from CBC/Radio-Canada’s radio services as a seminal moment for the Corporation and for Canada. Chairman Juneau made this decision because the Corporation’s radio service was in trouble – losing audiences and credibility every day. Something major needed to change for the radio service to survive, and by taking bold action to remove ads, Chairman Juneau’s Commission created the conditions for the terrific revival of the radio service from which Canada continues to benefit. That is just one of the reasons why Canadians remember Chairman Juneau. It is why Canada’s most prestigious cultural awards are named after him.

The facts today are analogous to those the Juneau Commission confronted in 1974. Likewise, this license decision will greatly influence how the Scott Commission is remembered.

Here are the facts:

- CBC English TV has its smallest audience ever.<sup>6</sup> CBC English TV content is overwhelmingly popular, but many people prefer to enjoy it ad-free on Netflix.
- Anglophone and francophone journalists are in open revolt over Tandem,<sup>7</sup> which is problematic in and of itself but also indicative of a greater pathology: management’s obsession with advertising and commercial activity and their corresponding disregard for public service, especially news. Their two-page “Strategy Summary” doesn’t mention the word “journalism” once, but it does stress a “business priority” to maximize commercial revenue.<sup>8</sup>
- Despite management’s statements to the Commission that budget cuts have not affected news quality, FRIENDS has learned that journalists are pleading with management to reverse cuts and other practices that are compromising quality, as detailed in Appendix 3, below.
- As private journalism disappears across Canada, CBC is in no position to pick up the slack. “Station-originated programming expenditures”, a proxy for local news spending, has

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<sup>6</sup> As reported in the Corporation’s latest 3Q Report, CBC English Television’s primetime audience share in 2020 stood at 4.9%, Canadians 2+, almost half of what it was a decade ago. In the key advertiser demographic, adults aged 25-54, CBC’s audience share is only 3.6%. *Trends in CBC Expenditures and Advertising Revenue*, Canadian Media Research Inc., February 2020, at p. 17 & 21, filed with FRIENDS Intervention.

<sup>7</sup> S Hout (2020). “Hundreds of CBC staff sign open letter against broadcaster’s paid-content plans.” *The Globe and Mail*, 9 Dec 2020. <https://www.theglobeandmail.com/arts/article-hundreds-of-cbc-staff-sign-open-letter-against-broadcasters-paid/> [Accessed 27 February 2021].

<sup>8</sup> CBC Strategy Summary, “Your Stories Taken To Heart.” <https://site-cbc.radio-canada.ca/documents/vision/strategy/2019-strategic-plan-en.pdf> [Accessed 27 February 2021].

plummeted in English during the last license term,<sup>9</sup> a period in which the country lost more than 16,000 journalists.<sup>10</sup>

- For all their talk of public trust, CBC initially refused to disclose even basic facts about its digital activities, essentially hiding more than \$300 million of activity from public scrutiny. Disclosure eventually provided has been *de minimus*.
- Taken together, these factors have inspired a thriving #DefundCBC movement which is now so significant that it counts the Leader of the Opposition as a member and a champion.<sup>11</sup>

The crisis of 1974 applied only to radio, but today's crisis of confidence and relevance, while most evident in English TV, in fact touches upon almost every department. The Tandem fiasco has inspired a mutiny in English and Francophone newsrooms alike. The journalists complaining about insufficient resources speak of compromised quality in digital, radio, and TV.

Management appears blind to this reality.

Just as in 1974, the one thing that can return the Corporation to a viable path of distinctive public service is bold action by the Commission. The Broadcasting Act envisions that the Commission will regulate the Corporation, not just monitor it.

FRIENDS respectfully submits that it falls to the Commission, not only to withhold its trust from this CBC/Radio-Canada management team, but also to impose sensible regulation that can help CBC/Radio-Canada to restore *public* trust in their work.

One way to do that is to channel Juneau's cultural vision and professional resolve to order a phase out of all ads on English television, news programming in all languages, and all digital services. Doing so would do the CBC far more good than harm.

We cannot overstate just how much of a positive impact the Commission would deliver for Canadians by greatly reducing the prevalence of ads across the Corporation's services.

On January 18th, Chairman Scott asked FRIENDS why CBC/Radio-Canada's advertising initiatives should be restricted at a time when the corporation needs maximum flexibility to find its feet in this transitional situation where both analogue and digital services require significant investment of time and talent.

**But advertising does not afford flexibility. Advertising is a constraint.** On TV, advertising imposes a uniform structure on all programs, ensuring that no single aspect of any show can take longer than eight minutes to unfold, and filtering out programs that don't insert a cliffhanger in exactly the same spot each and every time. The impact of this imposed structure is most damaging to news programming, forcing producers to put interesting stories further down schedule in hopes

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<sup>9</sup> CBC English television expenditures on station produced news have declined from \$104.4 million in 2013 to \$37.3 million in 2020 or 64.3%. CBC Aggregate Annual Returns.

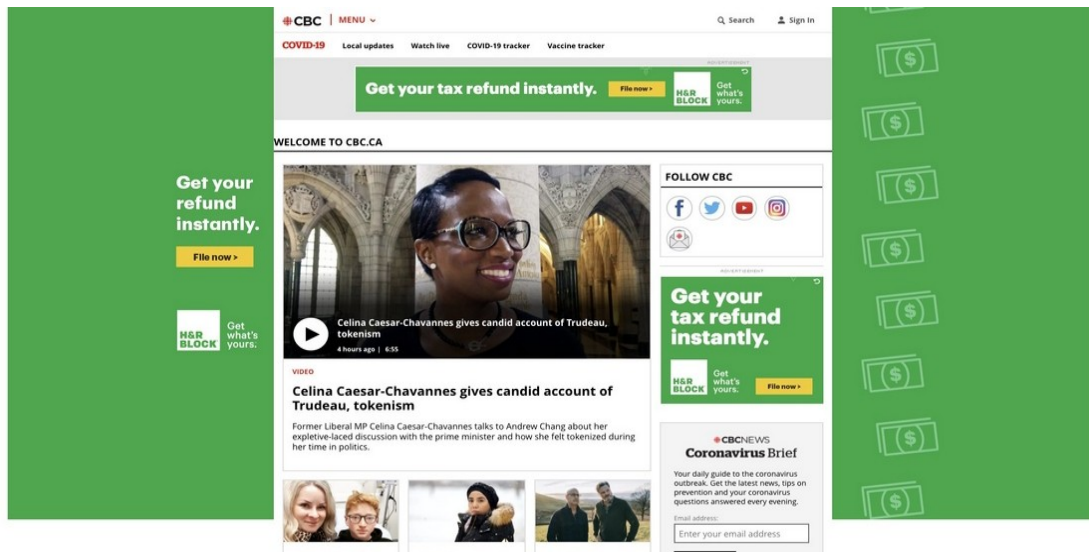
<sup>10</sup> According to News Media Canada. See <https://nationalpost.com/news/politics/band-aid-solution-ottawa-sets-aside-50-million-to-support-local-journalism> [Accessed 27 February 2021].

<sup>11</sup> See Mr. O'Toole's announcement at <https://twitter.com/erinotoole/status/1228288500350451713> [Accessed 27 February 2021].

that this will entice audiences to endure the commercial break which separates them from the information they find pertinent.

Online, advertising penalizes Canadians who choose to explore CBC's digital services by subjecting them to very aggressive pre-roll ads and other display ads that undermine the Corporation's credibility.

For example, here is a screenshot of cbc.ca from February 25<sup>th</sup> 2021. Is *this* how a credible, intelligent public service media organization presents itself?



The Commission has the power to end this abomination. FRIENDS implores the Commission, in the strongest possible terms, to use this power. The Juneau Commission's 1974 decision provides a clear precedent for the Commission's authority to restrict or prohibit advertising on certain CBC/Radio-Canada services. FRIENDS can only hope that this Commission shows the same vision and leadership.

With advertising removed or at least greatly reduced, the Corporation could enjoy infinitely greater flexibility. All CBC/Radio-Canada services could use programming time however they choose, experimenting with new formats and structures without the nuisance of having to coerce everything into the space between commercials.

To remove advertising is to remove constraints, and FRIENDS' submission clearly demonstrated that with net advertising revenue for English TV quickly approaching zero, the cost of abandoning ads has never been so small. In fact, at \$72 million, the Corporation's revenue from English TV advertising is less than half of the \$150 million which the federal government restored to the Corporation's budget in 2016.<sup>12</sup>

<sup>12</sup> 2020 CBC English TV Aggregate Annual Return. Appendix A to the Corporation's February 3, 2021 reply to undertakings puts total TV advertising (English and French including discretionary services) at \$201 million in 2020, down \$16 million from 2019. Digital advertising is up \$13 million from 2019 to 2020 to \$46 million, reflecting the aggressive digital advertising practices noted above.

Meanwhile, with audiences fleeing, the benefits of a largely ad-free CBC/Radio-Canada have never been so necessary.

CBC/Radio-Canada is at a crucial inflection point. Either it finds a way to modernise and regain public trust, or it will be eroded and ultimately destroyed by a combination of audience flight and political hostility. The Commission has the power to put it back on a sustainable path. FRIENDS hopes that the Commission does not shrink from its responsibility to use that power without reservation.

Recognizing the crucial role that CBC/Radio-Canada must play for Canada to maintain its independent culture and healthy democracy, the Commission should do three things:

1. Impose cross-platform expenditure requirements that accurately reflect the way CBC/Radio-Canada actually operates and leaves no corner of the Corporation hidden from regulatory scrutiny.
2. Give the Corporation true flexibility by phasing out its #1 programming constraint: advertising. The situation will be different for English and French TV, but to begin, all news programs should become ad-free with 12 months. All digital services should be ad-free by the end of the license term, as should English TV.
3. Reinforce the primacy of news, especially local news. Either by passage of Bill C-10 or by modifying the DMEO on your own initiative, foreign OTTs will soon be compelled to pour hundreds of millions of dollars per year into original scripted Canadian content. But little if any of that money will go to journalism. The Corporation's first and foremost responsibility is to keep Canadians informed, yet its journalists attest to a devastating lack of resources which prevents them from delivering this vital public good. The Commission could help them, by imposing clear CPE requirements for news in general and local news in particular, so that all Canadians can have access to quality news and information.

The status quo is untenable. Minor adjustments won't do the job. If management has inspired any confidence at all, it is confidence in the fact they cannot be trusted to do what's right, or even to provide accurate statements to the Commission. Had Parliament wished for the Commission to merely rubber stamp the Corporation's proposals, it would not have empowered the Commission with so much authority and discretion under the Broadcasting Act. Parliament's intent was for the Commission to actively and expertly safeguard the broadcasting system, so that it may serve the public interest most fully. CBC/Radio-Canada is an integral part of the broadcasting system, and it therefore falls to the Commission not to placate management, not to monitor management, but to regulate them in the public interest. They have proven beyond a doubt that they do not merit the permissive regulatory approach they request.

The Juneau Commission saved the Corporation's radio service from itself. Canada remembers that, and remembers it fondly. This license decision will determine how Canadians remember the Scott

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Eliminating both English TV advertising and digital advertising could be accomplished within the \$150 million increase in parliamentary appropriation recently received by the Corporation. Eliminating all advertising would cost under \$100 million more.

Commission and FRIENDS only hopes that this memory will prove both lasting and positive. In this decision, the Commission will help determine whether CBC/Radio-Canada has a future as a truly national, truly public service offering the highest quality Canadian news and storytelling to Canadians everywhere. Now is not the time to be timid. It is the time to boldly defend the public interest.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Bernhard". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Daniel Bernhard  
Executive Director  
FRIENDS of Canadian Broadcasting

## Appendix 1: Evidence of transmission of FRIENDS anti-Tandem petition to Ms. Tait

27/02/2021

Friends.ca Mail - Tandem



Daniel Bernhard <[REDACTED]>

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### Tandem

Daniel Bernhard <[REDACTED]> Tue, Nov 24, 2020 at 4:00 PM  
To: Michael Goldbloom <[REDACTED]>  
Cc: Catherine Tait <[REDACTED]>, Aritha Van Herk <[REDACTED]>, Kim Trynacity <[REDACTED]>, Chuck Thompson <[REDACTED]>

Dear Mr. Goldbloom,

I hope you're keeping well in this difficult time.

Last week, FRIENDS asked our supporters to sign a petition calling on the CBC board to put an end to the Tandem initiative at your next meetings, which begin tomorrow.

Please see the attached letter and signatures. I hope you heed the calls of these dedicated Canadians, who are joining hundreds of current and former CBC journalists and executives in calling upon you to protect the CBC's integrity. We are all in your corner, and hope you'll join us in preserving public trust in the CBC.

I wish you a productive meeting tomorrow. Please acknowledge receipt if you find a moment.

Sincerely,  
Daniel Bernhard

Daniel Bernhard [@sendinthewolf](mailto:@sendinthewolf)  
Executive Director  
Friends of Canadian Broadcasting

Visit us at [friends.ca](http://friends.ca)

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 FRIENDS Tandem Petition.pdf  
6595K



## Appendix 2: Evidence of CBC logo on Tandem pages, at times exclusively


In this Tandem piece for Collège Universel,<sup>13</sup> the sponsor's logo is visible at the top of the page (first image) though it does not clearly state that the content is paid for by the College. Upon scrolling down (second image), the Radio-Canada logo is the only one which is visible.

radio-canada.ca

CONTENU ANNONCEUR ⓘ

**TOURNÉ VERS L'AVENIR**

Avec

 **COLLÈGE  
UNIVERSEL**  
CAMPUS GATINEAU

Ne manquez pas les portes ouvertes virtuelles du 18 février prochain. **Réservez dès maintenant.**

Depuis plusieurs mois, un puissant vent de renouveau souffle sur le Collège Universel. Cet établissement collégial privé et bilingue, le seul en son genre en Outaouais, a en

<sup>13</sup> Tourné vers l'avenir. <https://ici.radio-canada.ca/college-universel-gatineau/> [Accessed 27 February 2021].

Bien avant que frappe la pandémie qui a profondément chamboulé le milieu scolaire, la direction du Collège Universel croyait à l'importance d'actualiser son projet éducatif. « Dans leur vie quotidienne, les jeunes évoluent dans un monde où la technologie est omniprésente, souligne Saloua Zaida, directrice générale du Collège Universel. Ils ont rapidement et facilement accès à une grande variété d'informations et de connaissances. Nous avons donc la conviction que la façon de leur enseigner devait s'adapter à cette réalité. »

### À la fine pointe

Cette réflexion a entraîné en 2018 la création d'un département techno-pédagogique ayant pour mission de planifier et de mettre en œuvre l'implantation de nouveaux outils. « Le but consistait à adopter une approche plus dynamique et plus interactive qui saurait stimuler les étudiants en les impliquant davantage dans le processus d'apprentissage », explique la directrice.



L'innovation technologique s'est donc imposée comme moteur de ces changements, si bien qu'aujourd'hui, tous les locaux de classe sont dotés de dispositifs qui élèvent les apprentissages à des niveaux supérieurs. « Tandis que tous les étudiants ont un ordinateur portable, qui leur appartient ou qui leur est prêté par le collège, les classes sont toutes