

March 1, 2021

Claude Doucet
Secretary General,
Canadian Radio-television and
Telecommunications Commission
Central Building Les Terrasses de la Chaudière 1
Promenade du Portage
Gatineau, Quebec K1A 0N2

Dear Secretary General,

**Re: Broadcasting Notice of Consultation CRTC 2019-379
Application 2019-0282-5 (English AV Services)
and 2019-0280-0 (English Audio Services)
Licence renewals for the
Canadian Broadcasting Corporation**

1. We have final comments following our February 20, 2020, intervention to the CBC licence renewal and our presentation to the CRTC on Jan. 27, 2021. Our comments and positions taken in those documents stand.

The Importance of CBC/SRC to the Quebec Official Language Minority

2. The importance of the CBC to the official language minority in Quebec is difficult to over-estimate. We presented Table 52¹ to the Commission in our presentation on Jan.27. This table estimates that over the life of the current licence, 43% of total OLMC production is commissioned or acquired by CBC.

¹ QEPC, Table 52, “CBC/SRC, Estimate of CBC Percentage of English OLMC Independent Production, 2013-14 to 2019-20”, Source: CBC and CAVCO data.

3. Further, the CBC's "Mandate and Vision Perception Survey"² demonstrates the importance of the public broadcaster to the English-speaking population of Quebec. While 52% of Anglophone CBC users outside Quebec strongly agree that "CBC is important for me.", 65% of Anglophones inside Quebec strongly agreed³. This is a significant difference.

4. Likewise, 70% of Quebec OLMCs have a favourable impression of CBC, compared to 58% of other Anglophones⁴.

5. Both as program users and producers, the CBC is critically important to official language minorities. We wish to remind the Commission that linguistic minorities include other underrepresented groups such as women, Blacks, Indigenous, People of Colour, disabled, and LGBTQ+.

6. Does this data mean the status quo is acceptable? No it doesn't. It means the CBC as a whole is critically important to the Quebec OLMC.

7. For these reasons, the CRTC should be especially careful in its regulation of the CBC's relationship with official language minorities. Your decisions will have a much stronger impact on the Quebec official language minority than on Canadians as a whole.

Decline of CBC's OLMC Production

8. CBC's OLMC production expenditures have been lower during this licence period than the previous licence period despite the 6% quota⁵.

9. The last four years have seen a steady decline both as a percentage of CBC's total spending and spending per project. During 2019-20, CBC OLMC independent production fell to 4.5% of total production, \$5.9 million OLMC production volume, and average expenditure of \$126,000 per project- the lowest numbers on record.

10. We have had meetings from time to time with CBC management to impress on them the need for OLMC programming priorities. Yet, as we have pointed out in our intervention, and presentation on Jan. 27, the results have been inadequate.

² "The Mandate and Vision Perception Survey- Anglophones' Perceptions Towards CBC"; Corporate Research; May, 2020

³ Ibid, Anglophone CBC Users, Answers 8-10 on scale 1 to 10, Leger Poll, Spring, 2020, p.25

⁴ Ibid, "All things considered, what is your impression of the CBC as a whole?", p.35

⁵ QEPC, Table 23, "CBC/SRC, English-language Independent Production Expenditures by Region, 2008-9 to 2010-11 and 2013-14 to 2019-20", Source: CBC

11. In addition, we have pointed out that total English OLMC production has been falling along with the decline in CBC OLMC production. During the last five years, our production dropped from \$211 million to a record low of \$138 million, a loss of 35%. This contrasts with French CLOSM production that has increased during the same period from \$32 million to a record \$47 million, a jump of 46%⁶.

12. For this reason, we have requested that the English OLMC quota be increased to 10% of production and 12% of development.

The Need for Effective OLMC Consultation

13. To fulfill the CBC and CRTC obligations to the *Broadcasting Act*⁷ and the *Official Languages Act*⁸, we need a new consultation process instituted by the CRTC as a condition of licence.

14. Because CBC/SRC is so important to the Quebec OLMC, we believe consultation must be strengthened throughout the term of this licence. As we have said before, the consultation of the CBC with the Quebec OLMC has been inadequate despite the CRTC's best efforts in the last licence renewal.

15. See Appendix A for the CRTC's 2013 consultation obligations which have not provided satisfactory results for us.

16. In its 2013 decision, CRTC said CBC/SRC must, as a condition of licence, hold formal consultations at least once every two years with the OLMC/CLOSMs to discuss "issues that affect their development and vitality". In addition "Consultations shall include independent producers from OLMCs".

17. The CBC/SRC must "report annually on consultations that took place that year and demonstrate how feedback from the consultations was taken into consideration in the CBC's decision making process."

18. On the English side, we believe there has been a good will effort to fulfill these obligations by CBC management. However, the results have been inconsistent over time, and ultimately, unsatisfactory. We are unaware "how feedback from the consultations was taken into consideration in the CBC's decision making process."

19. We need effective consultation, and we need results from that consultation that increase our vitality. We do not now have that.

⁶ See Table 2 for English production up to 2018-19, and Table 34 for French CLOSM production up to 2018-19.

⁷ *Broadcasting Act*, 1991, s.3(1)(m)(iv)

⁸ *Official Languages Act*, 1985, s.41

20. Looking backward, CBC's OLMC consultation has been unsatisfactory. We have had problems with the data collected under the last licence. When we have requested OLMC information, such as total production budgets⁹, we have been regularly told by senior CBC staff that if data is not a COL by the CRTC, they will not supply it.

21. Looking forward, we are very concerned that the CBC will reduce its OLMC reporting data when they say:

“With the exception of the annual OLMC Consultation Reports, the current reporting tools with respect to OLMCs should be eliminated.”¹⁰

22. We are also concerned when the CBC says under its “Measurement and Reporting Requirements” that “Spending on programs for OLMCs, and to serve under-represented communities” will be captured. They do not say “Spending on programs on or by OLMCs...”¹¹

23. The CBC prefers “quantitative perception surveys” to evaluate the needs of OLMC audiences. They say:

“Audience perception studies reporting on OLMC communities are an excellent way to measure relevance and reflection.”¹², and

“If the Commission were to reduce current regulatory requirements, CBC/Radio-Canada could demonstrate that the needs of underrepresented groups are being met through quantitative perception surveys. Where sampling is too difficult or cost prohibitive, then focus groups, consultations, and structured discussions with under-represented communities would be used.”¹³

24. This is not good enough. Such data is not useful unless it is accompanied by effective annual consultation with OLMC associations, including feedback from previous annual consultations. In its deliberations, it may be difficult for the CRTC to balance our needs with other underrepresented groups, and the CBC's resources.

25. For those reasons, we request that the CRTC require, as a Condition of Licence, that the CBC negotiate a Collaboration Agreement with the associations representing the Quebec OLMC. CBC has entered into such an Agreement with the French CLOSM associations as we pointed

⁹ See Table 23. The CBC provided total production budgets, regional breakdowns, and Canadian totals to the CRTC from 2008-09 to 2011-12. We would request that this data be reported again so we can better compare OLMC production with CBC's other English-language independent production.

¹⁰ CBC letter to the CRTC, “Broadcasting Notice of Consultation CRTC 2019-379 – Reply to Undertakings”, from Bev Kirshenblatt to Claude Doucet, Feb.3, 2021, CRTC DM#3981695., p.5

¹¹ Ibid, p.7

¹² Ibid, p.5

¹³ Ibid, p.9

out in our presentation to you.¹⁴ The precedent has been set. However, the English and French minorities have different needs.

26. Therefore, this English OLMC Collaboration Agreement should provide:

- a framework for research and OLMC data collection,
- an effective consultation process for both OLMC program users and producers (including stationing a senior production executive in Montreal), and
- a feedback loop to review OLMC reports and evaluate the effectiveness of CBC decisions on the OLMC.

27. We respectfully request that the CRTC establish a deadline for the conclusion and review of this CBC-OLMC Collaboration Agreement in a timely fashion.

28. Thank you.

Yours truly,



Kirwan Cox



Guy Rodgers



Sylvia Martin-Laforge

cc- Bev Kirshenblatt, CBC

¹⁴ This “Collaboration Agreement for the Development of Arts and Culture in the Francophone Minority Communities of Canada” was signed in 2009 and subsequent years by PCH, CBC, Telefilm, NFB, Canada Council, and the National Arts Centre, with the Fédération culturelle canadienne-française on behalf of the CLOSM. At this time, only the NFB has signed a Collaboration Agreement with the Quebec OLMC.

APPENDIX A

CRTC 2013-263

CONSULTATIONS AND REPORTING REQUIREMENTS

Consultations with OLMCs

350. To help ensure that the needs of OLMCs are reflected in the programming of CBC French-language television, the CBC currently consults members of OLMCs in various ways. These include the CBC's Panel des Régions, a citizens committee set up by the CBC. The panel includes individuals from all regions of Canada with whom the CBC holds discussions regarding regional and OLMC reflection. As well, the CBC makes regular contact with associations representing OLMCs and holds meetings where CBC executives travel to meet citizens from OLMCs. It also undertakes special consultations when important changes are about to be made with regard to the level of service offered in certain OLMCs.

351. In addition to its current modes of consultations, the CBC made a commitment to hold consultations every two years in OLMCs in Atlantic Canada, Ontario, and Western Canada in order to ensure that the CBC's French-language television programming takes their needs into account. The consultations would take the form of public meetings where CBC regional and network management as well as the senior vice-president for French-language services would meet with the general public to report on accomplishments and gather information for planning purposes. The CBC did not consider, however, that decisions regarding programming should be subject to prior approval by OLMCs.

352. The CBC did not make a commitment to consult with English OLMCs.

Positions of interveners

353. Intervenors emphasized that consultations must be taken into account in the CBC's decision-making process. Parties such as the CLO, SOS CBEF and organizations representing OLMCs considered that the CBC should consult before making decisions, not after. They were of the view that consultations should not be limited to transfers of information but should consist of structured meetings in each region based on the priorities of OLMCs.

Commission's analysis and decisions

354. The Commission considers that it is essential for the CBC to consult representatives of OLMCs so that the programming of all of its services responds to the particular needs and circumstances of OLMCs, as set out in section 3(1)(m)(iv) of the Act. While the CBC made commitments in this regard for its French-language television, the Commission considers that consultations should be required by condition of licence for all CBC services. Accordingly, the Commission has set out **conditions of licence** in Appendix 1 that require both the French- and English-language services of the CBC to:

- hold formal consultations at least once every two years with OLMCs in each of the regions of Atlantic Canada, Ontario, Western Canada, the North and Quebec to discuss issues that affect their development and vitality. For the French-language services, the relevant regions are Atlantic Canada, Ontario, Western Canada and the North. For the English-language services the relevant region is Quebec. Consultations shall include independent producers from OLMCs.
- report annually on consultations that took place that year and demonstrate how feedback from the consultations was taken into consideration in the CBC's decision making process.

355. The Commission reminds the CBC that OLMCs are dispersed all over the country and that it will expect the CBC to include communities located in the North to be considered when the CBC holds its consultations in each of the regions. An example of issues that the Commission will expect the CBC to discuss and ultimately resolve through its consultation process with OLMCs is that raised by ACFA concerning the inability of visitors to Jasper National Park in Alberta to receive the signal of Première Chaîne over the air. The Commission further encourages the CBC to consult with OLMCs on important matters that might affect their development and vitality before decisions are taken.

Reporting requirements

356. The Commission currently requires the CBC to submit a detailed annual report. The CBC argued that much of the information that it files with the Commission is redundant to reports that it already prepares for other government agencies and information already filed in program logs. Preparation of the detailed annual report therefore results in duplicated effort and unnecessary administrative burden.

357. For the new licence term, the CBC proposed to provide reports on PNI and OLMCs and to provide the Commission with all other reports that it provides to other public agencies to which it is accountable.

358. Most parties were pleased that the CBC had agreed to provide reports on PNIs and OLMCs, provided they were sufficiently detailed.

359. Earlier in this decision, the Commission imposed a condition of licence on the CBC's French-language television requiring it to devote at least five hours per week averaged over the broadcast year to Canadian programming produced in the regions of the Atlantic, Ontario, the West, the North and Quebec (excluding Montréal). Accordingly, the Commission also considers it appropriate to require the CBC, by condition of licence, to submit reports on regional productions broadcast during those five hours, as well as on programs (other than PNIs) aired in prime time that reflect OLMCs.

360. The Commission considers that the information that the CBC proposed to provide on OLMCs and PNI is sufficient and notes that the information on PNI will be more detailed than that required of private broadcasters.

361. The Commission further considers that it is not necessary for the CBC to provide copies of reports that it prepares for other government agencies since those reports are already available to the public online. The Commission considers that this approach reflects section 5(2)(g) of the

Act, which states that the Canadian broadcasting system should be regulated and supervised in a manner that is sensitive to the administrative burden imposed on persons carrying on broadcasting undertakings.

362. In line with the CBC's commitments at the public hearing, the Commission is imposing **conditions of licence** requiring the CBC to file, in a format acceptable to the Commission, annual reports on:

- PNI broadcast in prime time, specifying the program category, language, origin, region and whether the production comes from an OLMC;
- programs broadcast on the network other than PNI, produced in OLMCs and/or offering reflection of those communities;
- information on local programming that provides reflection of OLMCs; and
- the results of surveys on the perception of OLMCs on how the CBC's television and radio services reflect the OLMCs.

363. The above-noted **conditions of licence** are set out in Appendices 3 and 4 to this decision. The Commission further requires the CBC to provide a link for the Commission's website to that part of the CBC's website that sets out all of the CBC's reports to public agencies to which it is accountable. The Commission also reminds the CBC that, earlier in this decision, it has required the CBC to provide reports regarding:

- ombudsmen;
- **consultations with OLMCs**; and
- programming that reflects the regions, including OLMCs, on RDI.

364. The Commission further notes that the CBC files the following reports to the Minister of Canadian Heritage and Official Languages that relate in part to OLMCs:

- the CBC Corporate Plan Summary and Annual Report; and
- the Report on Official Languages and the Action Plan on the Implementation of CBC Responsibilities under the *Official Languages Act*.

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