



2021.03.21

M. Claude Doucet
Secretary General
Canadian Radio-Television Telecommunications Commission
Place des Chaudière
Gatineau, QC

M. Doucet:

**RE: Intervention Final Submissions
Canadian Broadcasting Corporation
Application for Licence Renewal
CRTC Application No. 2019-0282-5**

1. I am the Founder and President of Electronic Earth, a not-for-profit corporation whose mandate is to connect and support new and emerging Canadian content producers in the development and delivery of Canadian film, television and web-programming content to wider Canadian and international audiences. A sample of the projects that Electronic Earth has supported can be found at our website: electronicearth.ca
2. We are writing today, again, on behalf of our members to further explain the oral submissions to questions raised by one of the CRTC Commissioners present during the digital appearance made by myself in the intervention hearing process where Electronic Earth proposes changes to CBC's conditions of licence.
3. If I interpret the transcript properly, the Commissioner was asking of me how to substantiate or validate that an applicant would qualify for the new and emerging talent audio-visual programming fund based off of the criteria provided in Electronic Earth's intervention document in paragraphs 18, 19 and 20. The eligibility criteria for the fund was outlined in s.18.2 and was as follows:
 - a) the applicant must be Canadian or a permanent resident of Canada;
 - b) the applicant must not have received more than a lifetime cumulative amount of funding from any source for programming content in excess of \$125,000.00;
 - c) the applicant must not have had a project accepted to a tier 2 or higher film festival and/or been broadcast by a television or streaming content broadcaster; and
 - d) the applicant must not have produced a film that has had

theatrical release and/or theatrical distribution in any territory.

4. To more adequately explain how CBC could substantiate or validate that an applicant does indeed qualify for the fund, CBC could require or acquire the following information from the applicant or other sources of information at CBC's disposal. I will outline them accordingly by letter as noted in paragraph 3:
 - a) an applicant could be required to provide identification demonstrating proof of citizenship or permanent residency with their application for funding;
 - b) as part of the application process, a form or authorization letter could be included that is a mandatory requirement to complete with an applicant's submission that would authorize CBC to contact other audio-visual funding bodies to verify that the applicant has not received funding and if they have that the funder may disclose the funding amount to CBC to ensure that accumulative amount is not in excess of \$125,000.00;
 - c) a tier 2 or higher festival is typically of an international festival status. CBC would be able to utilize internet based recourses like IMDb, filmmaker biographical information and google to assess if the applicant name has been broadcast/streamed or had projects accepted into tier 2 or 1 festivals – lists of tier 2 and 1 festivals are also available online to check against;
 - d) as with 'c', filmmakers having had theatrical release or distribution would have some record of this information online with IMDb and/or would be searchable with google.
5. Any applicant who then qualifies for the fund using the criteria above and that CBC verifies using the information available to them and acquires through their authorization letter could then receive funding and their application would move into the qualifying pile for CBC to then determine which applicants at their discretion would be the most likely to further their careers in audio-visual content creation through the receipt of funding through the new program – some CBC criteria may be that an applicant has completed audio-visual or tv/film production and business training or that an applicant has previous credits on audio-visual or tv/film projects (if in non-above line roles than possibly they may be recommended to pair with a more experienced project partner but with the applicant remaining the lead project organizer.
6. In order for CBC to substantiate proper reporting to the CRTC in ensuring that the new programs funds were delivered to the appropriate category of new and emerging talent CBC, through the methods described in paragraph 4, would have the available information to contribute to an annual report submitted to the CRTC evidencing that the fund was distributed appropriately as under the threshold requirements of the fund.

7. I hope this further answers the questions asked of the Commissioner during my digital appearance at the hearing phase of this licence renewal application.
8. In closing I also wanted to briefly state once again and remind the commission as I had in my digital appearance that CBC still has not addressed any of the information, or responded to my recommendations, within Electronic Earth's intervention or as raised during my digital appearance. CBC, even when I had stated my reminder to this effect at the digital hearing appearance, also failed to address our intervention in their own digital hearing appearance closing submissions or in any capacity to date.
9. Electronic Earth is still of the opinion that CBC should not be removing funding from its budget that would lower its CRTC programming requirements and moving those funds into non-programming or alphanumeric / website areas of their budget without investing a significant portion of those funds into the future of Canadian audio-visual programming through the development of Canadian talent and assisting in ensuring the future of Canadian content creators.
10. As a result of this opinion Electronic Earth and myself strongly recommend that the CRTC imposes the conditions of licence that Electronic Earth and myself recommended in our original phase 2 intervention document – a copy of which is re-attached with this final submissions document.



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July 13, 2020

M. Claude Doucet
Secretary General
Canadian Radio-Television Telecommunications Commission
Place des Chaudières
Gatineau, QC

M. Doucet:

**RE: Canadian Broadcasting Corporation
Application for Licence Renewal
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1. I am the Founder and President of Electronic Earth, a not-for-profit corporation whose mandate is to connect and support new and emerging Canadian content producers in the development and delivery of Canadian film, television and web-programming content to wider Canadian and international audiences. A sample of the projects that Electronic Earth has supported can be found at our website: *electronicearth.ca*
2. We are writing now on behalf of our members to intervene in the present application filed by Canadian Broadcasting Corporation (“CBC”) to renew its television licences. Having reviewed CBC’s Public Financial Summary recently filed in support of its application, Electronic Earth **proposes changes to the Corporation’s conditions of licence.**
3. We understand from the Commission’s initial Notice of Consultation that it will be considering the issue of CBC’s role in fostering original Canadian audio-visual content, with a particular focus on what support(s) it offers to new and emerging talent.¹ We believe that CBC should be required to reinvest in original Canadian programming content, rather than put more money into non-programming initiatives, as CBC’s Public Financial Summary appears to suggest.

Proposed Reallocation of Programming Dollars

4. It is our understanding from reading the Supplementary Brief filed by CBC that it is seeking relief from certain terms of licence requiring a minimum amount of programming to be broadcast over its traditional platforms, which it then intends to make up for on its digital properties such as Gem.² While we take no position on whether CBC’s digital offerings should be included in how the Commission measures CBC’s programming, we do think CBC should be required to reinvest at least a portion of the financial savings from that plan back into additional new and emerging Canadian audio-visual content creators.
5. We understand from the Notice of Consultation that CBC has declared in its strategic plan for the coming licence term that it “will ensure Canada and Canadian creators are seen and heard around the world”.³ In fact, in its Supplementary Brief, CBC outlines its role in the development of Canadian content: “CBC/Radio-Canada highly values Canada’s independent producers as partners; together we are the engine for the country’s creative sector”.⁴ However, what can be seen from the additional

¹ CRTC NoC 2019-379 at para. 21, Qs 8 and 11.

² CBC Supplementary Brief at paras. 20 and 21.

³ CRTC NoC 2019-379 at para. 10.

⁴ CBC Supplementary Brief at para. 22.

financial information filed by CBC is that it intends to take money away from audio-visual production, and reinvest it into primarily alpha-numeric non-broadcast material.

6. In reviewing the “Digital” elements of the Public Financial Summary, we note CBC intends to increase spending on Gem and similar platforms until at least 2023 with the trend likely to continue through the remainder of the licence period. What we also see is that increase matches almost dollar for dollar the corresponding increase in digital advertising revenue over the same period.
7. However, in reviewing the “Conventional” elements, primarily television, we note CBC proposes to decrease spending on annual television programming. Comparing the 2020-2021 fiscal year actual spend to the proposed budget for the 2022-2023 year, we see CBC intends to reduce its television programming expense by \$16 million. This reduction in spending outpaces its loss in advertising and subscription revenue by a factor of two, and comes despite the fact the Government Appropriation itself is projected to be \$22 million higher than it is today.
8. The additional \$8 million cut from television programming that exceeds any corresponding losses and the \$22 million increase in government funds represent together a net gain of \$30 million in available funds by the 2022-2023 year. From that \$30 million amount CBC proposes to reinvest only \$6.5 million on its digital platforms such as Gem and its French-language counterpart.
9. This information illustrates that CBC expects to have \$23.5 million *more* in available funding by the 2022-2023 year than it does today. So the question is, “What does CBC intend to do with the money it is no longer investing in programming?”. The answer appears to lie in the line titled “Websites, Curio and Other”.
10. What we see on that line is that CBC intends to spend \$29 million more on “primarily CBC.ca and Radio-Canada.ca” in the 2022-2023 year than it does today.⁵ CBC acknowledges these services are “non-programming”. Electronic Earth is of the view that CBC should *not* be granted the requested relief from its condition of licence unless it intends to reinvest in new and emerging talent instead of increasing funding for non-programming activities as it proposes.
11. This intervention seeks to explain the hurdles faced by our members in reaching larger audiences, and to demonstrate why CBC should be required to meaningfully reinvest a portion of the excess funds now slated for alpha-numeric content into new and emerging Canadian talent in exchange for being relieved of its current conditions of licence. We propose a plan under which CBC can play an industry leading role in truly developing Canadian audio-visual content makers, as is its own stated objective.

Hurdles for New and Emerging Talent

12. Our members, like many individuals trying to break into a new industry, face a number of hurdles to success: primarily a lack of access to financing; and a lack of access to exposure. The all-too-familiar Catch 22 is as present in the world of film production as it is elsewhere, namely that without money, there are limited opportunities to produce a marketable product, and without an established track-record of successful products, there are few people who are willing to give you money.
13. We understand that CBC offers funding for new and emerging filmmakers through initiatives such as CBC Films; Electronic Earth applauds these initiatives. However, CBC’s own Frequently Asked Questions section on its website regarding funding for Canadian films acknowledges that its funding model in many instances locks out truly new and emerging talent:

⁵ CBC Public Financial Summary, Note 4.



**Why does the filmmaker have to have had a film in a recognized festival?
You're shutting out the very groups you say you want to support.**

CBC Films mandate is aimed at supporting creators who already have some experience and recognition. *First time filmmakers are encouraged to investigate other sources of funding* set out in our list of funding and production resources at the bottom of these FAQs [emphasis added].⁶

As of the date of writing, the link to “other sources of funding” was dead.

14. As shown in the attached ‘Schedule A’, many sources of funding available to filmmakers either require a producer or director to have a previous project selected by a recognized film festival, have had a project broadcasted, have a significant amount of funding to already be in place (sometimes up to 90%), have an advance distribution commitment to already be in place, and/or have an existing agreement with a recognized broadcaster to have been negotiated. These requirements are often unattainable for new and emerging filmmakers.
15. If CBC intends to be the engine of Canada’s creative sector as it states in its application, it should be moving to eliminate these hurdles for first time filmmakers rather than perpetuate them. CBC is uniquely positioned to do so with its Gem Platform.

Proposal for Overcoming the Hurdles

16. Electronic Earth proposes a two-prong requirement that should be imposed on CBC in exchange for being relieved of its conditions of licence, as it is requesting, namely:
 - 1) that a portion of the financial savings which CBC proposes to redirect away from programming into non-programming activities should be dedicated to funding truly new and emerging talent; and
 - 2) that CBC should be required to provide a space on its digital platform where the work of new and emerging creators can be showcased to parties looking for projects to develop.

Funding

17. During the COVID-19 pandemic shutdown, CBC established the *CBC Creative Relief Fund* and granted over \$2 million in support of new projects. The eligibility requirements to apply to this fund were minimal: an applicant only needed a single credit, or to be paired with an established producer.⁷ It would seem from this program that CBC acknowledges that locating and developing interesting new talent is not actually contingent on having funding lined up in advance, a significant body of work behind you, a distribution deal already in place or a broadcaster already on board. **That recognition should not be limited to times of crisis, since the funding/experience barriers to new talent are ongoing.**
18. As a result, we propose that the Commission impose the following conditions of licence on CBC:

⁶ <https://www.cbc.ca/films/faq/> (as of June 24, 2020).

⁷ <https://www.cbc.ca/mediacentre/press-release/canadas-public-broadcaster-launches-the-cbc-creative-relief-fund> (as of June 24, 2020).

- 1) That CBC be required to dedicate at least 50% of the money it intends to redirect into non-programming activities, or \$15 million by the end of fiscal year 2023, and an additional \$5 million per year for the remainder of the licence term, to a program dedicated to new and emerging talent exclusively; and
- 2) That the eligibility for this program be established as follows:
 - a) the applicant must be Canadian or a permanent resident of Canada;
 - b) the applicant must not have received more than a lifetime cumulative amount of funding from any source for programming content in excess of \$125,000.00;
 - c) the applicant must not have had a project accepted to a tier 2 or higher film festival and/or been broadcast by a television or streaming content broadcaster; and
 - d) the applicant must not have produced a film that has had theatrical release and/or theatrical distribution in any territory.

19. We think such a program with minimal barriers to access for truly new and emerging audio-visual content creators would serve to advance CBC's self-declared role in the Canadian creative content industry.
20. To ensure the ongoing vibrancy of Canada's film, television and digital production industry, we propose that a similar condition be imposed in subsequent licence terms.

Exposure

21. Furthermore, it is open to CBC to offer a space on its Gem platform where new and emerging filmmakers and content creators can connect with individuals or other organizations who themselves are looking to fund unique projects. This online space would be much like the Catalogue of Canadian Instrumental Music, the merits of which the Commission praised when it was being developed:



The Commission considers that the proposed catalogue will provide a central source for Canadian instrumental music and artists. The catalogue will also be a valuable research tool for radio licencees considering the introduction or addition of instrumental musical selections to their musical rotations.⁸

22. At present, most emerging artists self-publish on sites such as YouTube and Vimeo. On those sites, individuals or other organizations looking for new and exciting projects must navigate through millions of pieces of content that have been posted for any number of reasons, with no real way to know which creators may be seeking development opportunities. Similar to the catalogue, a "Gem Incubator Space" would serve as a central location where new and emerging filmmakers and those seeking out projects could connect. Having the incubator offered on a CBC platform would provide the much-needed exposure and legitimacy to these filmmakers that is presently lacking.
23. Furthermore, CBC would be in a position to promote the Incubator Site both on its traditional and digital platforms. Such a space would be perfectly in keeping with CBC's self-declared role as the "engine of Canada's creative sector". And it also would be a fair trade for CBC's proposed amendment to one of its conditions of licence.
24. We understand from CBC's Supplementary Brief that it is asking to reduce the amount of required programming on its traditional platforms, and to be permitted to lean on its digital platforms to satisfy

⁸ CRTC Decision No. 2005-254 at para. 19.

its regulatory requirements.⁹ We agree with CBC that how Canadians consume content is changing, and that digital platforms are certainly growing in prominence (one need not look further than to the success of Netflix and AppleTV in the most recent awards season!).

25. We also understand that the Commission typically does not like granting these kinds of changes unless the licensee offers something in return to benefit the system more broadly. As a result, we feel it is entirely appropriate that if the Commission is prepared to grant CBC's request to include its digital programming toward its regulatory obligations that the Commission also impose a condition of licence requiring CBC to offer up a part of that platform for the development of new and emerging Canadian content producers, rather than redirect that money into non-programming activities as it proposes.
26. As a result, in addition to the funding condition above, we propose the Commission impose the following conditions of licence on CBC:
 - 1) That CBC be obligated to create a channel on its Gem platform for the purpose of providing space to new and emerging Canadian content providers; and
 - 2) That the Commission declare its expectation that the channel be promoted on CBC's platforms (both traditional and non-traditional) in keeping with CBC's self-declared role in developing Canadian content.
27. Together, these proposed conditions of licence would greatly assist new and emerging Canadian content creators in both getting their projects off the ground, and connecting with individuals who may be able to bring their projects to the next level. This outcome can be achieved at very little cost to CBC, all the while in keeping with its mandate and role in developing Canadian culture as the engine for the country's creative sector.
28. We appreciate the opportunity to offer our comments. **We request to appear at the public hearing** in order to further discuss how CBC can truly help new and emerging Canadian content producers and filmmakers.



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⁹ CBC Supplementary Brief at para. 20.

Schedule 'A'

[] *Funding barriers to truly new and emerging filmmakers and content-producers.*

	Requires Funding in Place	Distribution/Broadcast Agreement Needed	Previous Project Credits Needed	Previous Work Advance Approval
CBC Creative Relief Fund <i>*no longer available, COVID-19 emergency relief</i>	No	No	1 any above line credit in any project No festival showcase or broadcast requirement	No
CBC Breaking Barriers Film Fund¹	Yes – 80 to 90% Available: 10% to 20%	No	1 above line feature length film credit shown at a recognized film festival	No
CBC Films²	No	No	1 director credit on a feature film showed at recognized festival or 3 director credits on a broadcasted episodic series or 1 director credit on a short film showed at a tier A international festival	No
Ontario Creates³	Yes – 70% Available: 30%	No	1 producer credit on a feature length film that had theatrical release or 1 television movie that was broadcast or 1 series that was broadcast	No
Telefilm Canada Talent to Watch⁴	No	No	1 above line short film credit featured at a tier A international film festival or 1 recommendation by a partner educational institution (each institution may only put forward one application)	Automatic funding approval to filmmaker who wins an award at a recognized festival
Telus Fund Production Fund⁵	Yes – 5% and “.. significant contribution from the Canadian production sector”	Yes	No	No
Canada Media Fund Independent Production Fund⁶ (CMF & IPF)	No	No	“Must have previous credits as either producer or writer on scripted episodic or short form content.”	No

1 <https://www.cbc.ca/mediacentre/press-release/cbc-launches-cbc-breaking-barriers-film-fund-in-support-of-underrepresented>

2 <https://www.cbc.ca/films/guidelines/> and <https://www.cbc.ca/films/faq/>

3 <http://www.ontariocreates.ca/Assets/Industry+Initiatives/English/Content+and+Marketing/Film+Fund/Film+Fund+Production+Guidelines.pdf>

4 <https://telefilm.ca/en/financing/talent-to-watch>

5 <https://telusfund.ca/apply-production/>

6 <https://www.cmf-fmc.ca/getattachment/ae9a9716-0c53-4404-ae95-44b0e75aca47/attachment.aspx>

[***End of document***]

CRTC Application No. 2019-0282-5 Intervention Supplementary Document: Schedule 'A'

