



DOCUMENTARY ORGANISATION OF CANADA
DOCUMENTARISTES DU CANADA

5 February 2008

CHECK AGAINST DELIVERY

RE: **Re: Broadcasting Notice of Public Hearing CRTC 2007-15**
CTF Task Force Report

Madame Chair Cugini, Messieurs du Conseil:

Bonjour. Je voudrais vous remercier. We would like to thank you for this opportunity to present before the Commission on this very important matter of the Canadian Television Fund. My name is Samantha Hodder, and I'm the Executive Director of the Documentary Organisation of Canada; Documentaristes du Canada, DOC. With me here is John Christou, and Danijel Margetic, both Board members and documentary filmmakers.

DOC is a bilingual, national, not-for-profit registered national arts service organization, comprised of independent documentary filmmakers, producers, directors and craftspeople. This year we are proud to be celebrating our 25th anniversary. DOC has grown from a group of six founding members in Toronto into a national organization with more than 750 members across Canada.

The importance of these public hearings cannot be over stated, and we are pleased to be here to present our findings before this public panel. The existence of the Canadian Television Fund is a crucial and integral component our broadcast industry. My disappointment about his hearing is that Jim Shaw is not planning to be here with all of us. As a small organization, we have spent significant resources over the past year planning and preparing for this event -- hardly the kind of thing that can be rescheduled at the last minute. If it became my decision not to show up, my remarks would not be on the record. Real cowboys don't send someone else to bust their bronco.

Over the past two days, you heard stories about successful Canadian television shows, and you have even had the chance to meet some of the actors. We are here to remind you of the equal successes of the documentary industry, a genre

with long-standing roots in Canada. Allow me to introduce a few recent examples of successful documentaries, ones that have been financed through the CTF and have gone on to garner world-wide acclaim. A few of them are: *Manufactured Landscapes*, *Shake Hands with the Devil*, *The Corporation*, and *A Promise to the Dead: The Journey of Ariel Dorfman*, which was recently short-listed for an Oscar, but was beat out for the nominations by Michael Moore's *Sicko*, which stars the Canadian Health Care System.

The documentary industry in Canada is a \$440 million industry, which employs roughly 15,000 part-time and full-time equivalent jobs and produces more than 20% of the annual total of Canadian content¹. For the year 2005-2006, the Fund was responsible for fully 46% of total production of the documentary industry – just so that I can underscore this point, almost half of the documentary production industry derives a portion of its financing from the Fund.

The documentary industry runs on very different metrics than the drama industry. It turns just 19% of the total CTF funding each year into 37% of the programming by hours and this in turn roughly equates to half our industry.

But some may say, this is just Canadian programming that no one watches...our data indicates this is not true, at all. Among CTF-supported genres, Canadian documentary scores very high in audience figures. In the English-language market, viewing to Canadian documentaries accounted for 71% of viewing to all documentaries, and in the French-language market, it accounts for 83%. In terms of the global marketplace, for the year 2005-2006, the documentary industry had \$42 million worth of exports, a combined figure for both television and theatrical production. It's also important to note that International visibility for Canadian documentaries, in terms of festival exposure and international sales, is extremely high.

We have a number of points we wish to raise with the Commission today, but to prioritize them, our top three are: First, to address the issue that the Fund is broken; Second, whether or not the Fund should be split into two funds; and third, the recommendation to cap the available tax credit input to productions at 50% is crucial, if, and only if it is accompanied by a another recommendation of the Task Force which we support, that is to increase licence fees.

Regarding our first point, there has been much rhetoric in the media, and beyond, that the Fund is broken and needs to be fixed. In fact, our colleague Jim Shaw took out expensive full-page ads in national newspapers to make his point. In one ad, he invited everyone to visit the Shaw website, which featured a simple yes or no question: Do you Think the CTF is Broken? The website made it

¹ All figures from this presentation are taken from *Getting Real: An Economic Industry Profile of the Canadian Documentary Production Industry*, Third Edition. Published by the Documentary Organisation of Canada, 2007.

possible to send the respondent's opinions to the Commission, along with the Minister of Heritage.

As documentary filmmakers, we are interested in representing a balanced and fair opinion. Our concern here was that Jim Shaw wouldn't keep track of the Yes and No answers equally. Thus we created our own survey, to our members and beyond, which we called Say NO to Jim Shaw. We invited CTF supporters to say NO to the question of whether or not the CTF was broken. First we steered them to Shaw's own website, and then we asked those people to write letters to the CRTC and to the Minister. Finally, we asked them to tell us their answers, yes or no, in order for us to keep track of how many people said NO, just in case we were the only group reporting. We know that more than 100 people took the time to write to us to voice their opinion that the CTF is NOT broken, and we can assume that the Commission received this correspondence as well. We wish at this time to acknowledge before the Commission that we feel this is a significant number of people who expressed their individual opinions on this matter.

In our opinion, perhaps the most grave issue here before the Commission is this concept to split the CTF into two funds, one "public" and one "private." If that were to happen, in our opinion, this would be tantamount to breaking the fund completely. But before we debate that potential outcome, it's important to discuss the inherent contradiction in this statement. The new so-called "private" fund will be market driven. This implies that the existing fund is not market driven now. This is far from the truth. In the documentary context, the existing broadcast licence fees cover such a small portion the budget that foreign presales, second window broadcast licences and pre-buys and then later acquisitions, are very often the only way to get a project financed, and thus put into production – I would say this is especially true of the one-off programs. What this means is that they are absolutely required to be market driven, because that's the only way to get them financed in the first place.

Our next point was made by a number of my colleagues yesterday, but it bears repeating. DOC does not see the BDU contribution money as "private" money. It is public money, a regulatory requirement. It was the result of a settlement in 1993 that was made by the BDUs in their own interest. The wealth that BDUs enjoy comes largely from operating in a regulated system which allows them protection. Allowing them to spend their contribution as they wish, and as in the case of Quebecor, in ways that do not employ the independent sector and allow them to self-fund their own programming is a proposal that is massively unfair.

At this time, DOC would like to raise some concerns specific to the documentary industry. Should the Commission decide to adopt a more market-oriented approach for part of the fund, DOC respectfully submits to the Commission that a new and separate category for feature-length Point of View documentaries be created and be allowed to participate in incentive programs. DOC first made this request last year during the OTA Policy Hearings. All of the market-driven

incentives that exist right now (increased advertising minutes, as one example), only apply to drama productions. Our drama colleagues rightly make the argument that getting Canadian drama scheduled in prime time is difficult. The only thing more difficult is getting a documentary scheduled during prime time; they virtually do not exist. DOC believes that these incentives should equally apply to feature-length point of view documentaries.

The other aspect that is weighted massively against our favour is how audience is currently measured with regards to CTF envelope allocation. Audience share is only relatively accurate if there is something available to be measured. If there is no Canadian documentary programming on the schedule, how can it be measured accurately? DOC suggests to the Commission that audience be measured by average minute audience, rather than audience share. This is a more accurate way to measure audience potential.

DOC would also like to remark at this time that the system of CTF envelope calculation effectively penalizes tele-educators: TVO, Télé Québec, SCN, Knowledge Network, who have to compete with all the national private broadcasters for their piece of the pie, despite the fact that tele-educational networks only broadcast regionally. This has a negative impact on the documentary industry, because tele-educators commission a large portion of documentary programming. DOC recommends that a different means of measuring audience per program be employed. For example, an accumulative average minute audience that includes repeat broadcasts of the same program over a one-year span.

DOC supports the Task Force recommendation that the eligible level of tax credits which can be invested in productions be capped at 50%, with the caveat that it would have to be coupled with a mechanism for increased licence fees to help make up the shortfall in financing.

Up until now, the CTF has allowed up to 90% of tax credits to be included in the financing structure of projects. This has in effect become the minimum standard requirement for funding from all broadcasters and funding agencies across Canada. Producers are balked at when they try to retain some of their tax credits. Let's remember the original intention of the tax credit system was a means to capitalize production companies so they can survive in between production cycles.

As a companion to the tax credit issue, DOC strongly supports the Commission's recommendation that licence fees should be increased. The last five years have seen modest increases in licence fees for documentary in English Canada. This is not the case in French Canada at all, where funding has been stagnant for many years, and at licence fee levels that are more than 50% lower than those

for comparable productions in English Canada². This has caused the French-language production sector to become increasingly reliant on public sector funds, which have proven to be very volatile.

The minimal increases of the English-language production sector have been outmatched by the rising costs of production, which can be attributed to a variety of factors, including:

1. Increasing fees for both creative and technical personnel;
2. HD programming -- the vast majority of broadcasters require a program to be in HD from start to finish;
3. The last decade has also seen a marked increase in both the cost of rights clearances, production insurance and Errors and Omissions.³

Producers have also found themselves being required to invest some of their broadcast production funds into creating supporting on-line content, without a corresponding increase in licence fees from the broadcasters.

DOC is heartened by the attention the Task Force has given to the funding of New Media as well as the proposed level of funding. The \$25 million figure speaks to the importance of New Media to Canadian producers and would represent direly needed funds. However, DOC cannot support the suggestion that these proposed New Media funds be carved out of the existing CTF allotment. At the present, the CTF is oversubscribed and Canadian producers would not be able to sustain a further reduction in resources.

DOC recommends that the creation a New Media stream within the CTF be dependent on finding new and separate sources of financing; one modest suggestion that has been made before is to increase the BDU allocation from 5% to 6%. This would allow for a stable and growing portion of the fund to be directed towards New Media initiatives. It also seems logical, since most BDUs in Canada also offer Internet and mobile services, and any New Media property would be heavily reliant on bandwidth, and the content would help to increase traffic through their portals.

Regarding the governance issues and the CTF, DOC would like to reiterate its position once again that although we represent an industry that comprises more than one-third of the CTF funding by hour volume, we do not have any official representation on the Board. We continue to seek representation.

Our last point in closing is that DOC strongly supports the Task Force recommendation that Sections 29 and 44 of BDU regulations be amended

² Getting Real / Toute la vérité (2007).

³ Howard Knopf (2006). The Copyright Clearance Culture And Canadian Documentaries. A White Paper On Behalf Of The Documentary Organization Of Canada (“DOC”).

immediately to require monthly submissions of BDU contributions to the CTF. DOC believes that this will help avoid future de-stabilization of the Fund.

On behalf of the Documentary Organisation of Canada, our Chair Michael McNamara, and our more than 750 members across the country, we would like to thank you for the opportunity to present before you today and we welcome any questions that you might have for us.