



**HOUSE OF COMMONS  
CANADA**

# **THE FUNDING CRISIS OF THE CANADIAN TELEVISION FUND**

**Report of the Standing Committee on  
Canadian Heritage**

**Gary Schellenberger, MP  
Chair**

**MARCH 2007**

**39th PARLIAMENT, 1st SESSION**



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# **THE STANDING COMMITTEE ON CANADIAN HERITAGE**

has the honour to present its

## **SEVENTEENTH REPORT**

Pursuant to its mandate under Standing Order 108(2) and the motion adopted by the Committee on February 1st 2007, the Committee has undertaken a study of the Future of the Canadian Television Fund and agreed to report the following:





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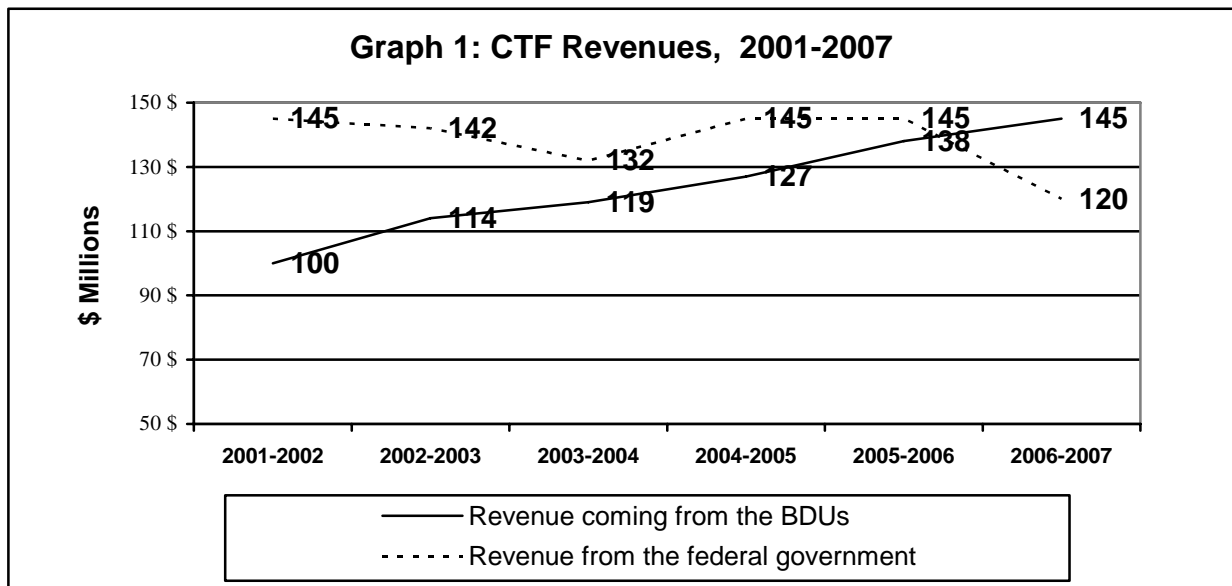
# THE FUNDING CRISIS OF THE CANADIAN TELEVISION FUND

## Description of the Canadian Television Fund (CTF)

The CTF was established in 1996 to support the production and distribution of distinctively Canadian television programming. The types of programs funded by the CTF include drama, youth and children's programming, documentaries, variety and the performing arts. The programming supported by the CTF is produced and distributed in both official languages, and in a number of Aboriginal languages.

The *Broadcasting Distribution Regulations* (BDR) require class 1 and 2 cable distribution licensees, along with direct broadcast satellite and multipoint distribution system (MDS) licensees, to spend a minimum of 5% of their annual gross revenues from broadcast operations on Canadian programming. The contributions to Canadian programming are made through the CTF and various independent production funds. The BDR provide that at least 80% of the required contribution must go to the CTF and that at most 20% should go to one or more independent production funds outside the CTF.

In 2006-2007, the CTF received funding from the Government of Canada (\$120 million) and from Canadian cable distribution and direct broadcast satellite service undertakings (\$145 million). Graph 1 shows that contributions from the industry have increased steadily since 2001-2002 while the government's share has dropped significantly, by \$25 million between 2005-2006 and 2006-2007.



Source: Canadian Television Fund, Stakeholders' Report 2006, p. 1.

## Recent Developments

In a letter sent to the CTF on December 20, 2006, Jim Shaw, CEO of Shaw Communications, called for major changes to the CTF's mandate and governance structure. The company announced that it was withdrawing its financial support to the CTF. Shaw Communications argued that it was being required to fund unpopular television programs and indirectly subsidize the public broadcaster, CBC/Radio-Canada. A few weeks later, the company went so far as to say that the CTF was simply too far gone to be fixed.<sup>1</sup>

On January 23, 2007, Quebecor Media followed suit. In a press release, the Quebec firm informed the CTF Chair that its subsidiary Videotron was immediately "suspending its monthly payments to the CTF and asking the Hon. Bev Oda, Minister of Canadian Heritage, to launch a thorough review of the Fund's management and membership structures."<sup>2</sup> Like Shaw Communications, Quebecor Media could not accept that its contributions should be used to "finance the public broadcaster CBC/SRC, and that the Canadian Television Fund should reserve 37% of all production funding for the CBC/SRC."<sup>3</sup> Quebecor Media also noted that some services, such as video-on-demand, do not have access to the CTF despite very strong demand for this service.

On January 26, 2007, the Minister of Canadian Heritage and the Status of Women, Beverly Oda, confirmed \$200 million in funding over two years for the CTF (2007-2008 and 2008-2009) to stabilize the television industry and help resolve the crisis. After meeting with the main funding parties, she reiterated her government's interest in supporting the production of Canadian programming and in listening to the concerns of the private contributors to the CTF.<sup>4</sup>

On February 13, 2007, Minister Oda announced that she had written to Shaw Communications and Quebecor Media, asking them to resume their payments. That same day, the Chairman of the CRTC, Konrad Von Finckenstein, issued a statement in which he echoed the Minister's concern and called on all stakeholders to "play by the rules and operate within the context of the regulatory system." He added that the Commission is "prepared to consider amending the regulations to take into account any resolution arrived at between the parties."<sup>5</sup>

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<sup>1</sup> *Shaw Communications*, "Canadians deserve better than the CTF has delivered," February 6, 2007 (<http://www.shaw.ca/NR/rdonlyres/7C5E480A-15F8-412A-B3C3-683BBF236AB0/0/CTFFeb6.pdf>).

<sup>2</sup> <http://www.quebecor.com/NewsCenter/PressReleasesDetails.aspx?PostingName=23012007>.

<sup>3</sup> Ibid.

<sup>4</sup> [http://www.pch.gc.ca/pc-ch/news-comm/DBO061495\\_f.cfm](http://www.pch.gc.ca/pc-ch/news-comm/DBO061495_f.cfm).

<sup>5</sup> <http://www.crtc.gc.ca/eng/NEWS/RELEASES/2007/i070213.htm>

Since then, Quebecor Media<sup>6</sup> and Shaw Communications have both agreed to the Minister's request, while still calling for a full review of the financial support provided for Canadian programming.

## **Evidence heard by the Committee**

### **The Importance of the CTF**

Many witnesses appearing before the Committee shared the view that the CTF is an essential part of the Canadian broadcasting system. Witnesses repeatedly stated that the CTF has been instrumental in fostering the creation of Canadian content programming. The Directors Guild of Canada stated that the Fund is the single most important source of funding for Canadian programs in our country. Noting the high costs of television production and the relatively small size of the Canadian market, the Canadian Film and Television Production Association suggested that without the CTF, independent producers could not afford to make their programs. The Minister of Canadian Heritage told the Committee that investments made through the CTF have generated more than 23,000 hours of new Canadian television productions in English, French, and aboriginal languages across genres such as drama, documentary, children's and youth, and variety and performing arts. In addition, Robert Rabinovitch, President and CEO of the Canadian Broadcasting Corporation, indicated that CTF funded programs are an important part of the Corporation's broadcast schedule. In fact, Mr. Rabinovitch suggested that along with government funding and advertising revenue, the CTF is one of the three pillars that allows the Corporation to fulfil its mandate of providing Canadian programming to Canadians.

Several witnesses also drew the Committee's attention to the CTF's role in creating employment in the Canadian production industry. For instance, the Canadian Film and Television Production Association stressed that: An estimated 21,000 full-time equivalent jobs out of 46,700 jobs in the television production sector are the result of CTF-supported productions.

### **Operational Aspects of the Fund**

During the hearings on the CTF, the Committee heard from Shaw Communications and Quebecor Media. Both Shaw and Quebecor Media felt that there are significant problems with the way the CTF operates. Shaw Communications expressed concern that "the CTF has not delivered on its mandate to support and expand the development of quality television programs that reflect

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<sup>6</sup> "Quebecor Media pleased with federal commitment to examine funding of Canadian Television Productions," February 13, 2007.

Canada's unique and special nature to Canadians" and that it has not increased viewership for Canadian programming. Shaw went on to state that the CTF has spent 2.3 billion dollars resulting in only a few success stories. In addition, Shaw felt that the CTF lacked accountability.

Quebecor Media expressed concern that the CTF has not adapted to meet the challenges posed by the rapidly changing broadcasting environment. A proliferation of specialty television channels and new broadcasting technologies has caused audiences to fragment, posing significant challenges to traditional business models. Quebecor Media expressed particular dissatisfaction with the CTF's apparent refusal to support production for video-on-demand programming.

Although nearly every witness appearing before the Committee felt that some improvements could be made to the CTF, most seemed to feel that, overall, the Fund has been operating well. Douglas Barrett, Chair of the Board for the Canadian Television Fund, insisted that CTF is a well-governed and well-managed institution. It is both program-effective in service delivery and cost-effective on the administrative side. It manages a considerable amount of public and private funding to the highest degree of fiduciary standards. The Writer's Guild of Canada stated that while the Auditor General's 2005 report had raised some issues with the Fund's governance, the composition of its board has since been altered, thereby resolving these issues. That said, it was clear from the hearings that Shaw and Quebecor Media do not share this perspective.

Several witnesses expressed the opinion that the CTF has indeed funded programs that Canadians watch. The CTF, the Canadian Broadcasting Corporation, the Canadian Association of Broadcasters, and the Canadian Film and Television Production Association all cited numerous CTF-financed productions that have garnered critical acclaim and, in their view, significant audiences. The Canadian Association of Broadcasters noted that while building audiences in English Canada remains a challenge, CTF-financed programs have been very successful in the French-language market, capturing 37% of all viewing to drama programming in prime time and 59% of all viewing to variety and performing arts programming.

### **The Way Forward**

Several witnesses noted that the uncertainty caused by recent events has seriously destabilized the Canadian production industry. Witnesses also stated that broadcast distribution undertakings must continue to contribute to the CTF if the Fund is to properly fulfil its mandate. The CTF, the Canadian Association of Broadcasters, and the Directors Guild of Canada specifically recommended that the CRTC move to amend the *Broadcasting Distribution Regulations* to require monthly payments from broadcast distribution undertakings to independent production funds.

In addition, the *Association des producteurs de films et de télévision du Québec*, the Directors Guild of Canada and the Writers Guild of Canada urged the government to provide the CTF with an interest-free loan equal to the amount of the outstanding contributions. Considering the importance of the Fund, the Directors Guild of Canada also recommended that the government provide it with stable, long-term funding.

The Canadian Broadcasters Association stressed that the CTF, and indeed all television production funding mechanisms, must keep pace with the changing realities of the broadcast environment. To this end, the Association recommended that the CRTC be directed to hold a review of matters related to production funding mechanisms. The first principle of such review, according to the Association, must be the creation of great Canadian programming that attracts audiences on all available platforms.

Shaw Communications expressed a desire for a thorough review and restructuring of the way Canadian programs are funded and produced, with an aim to achieving a funding mechanism that is independent, accountable to those who provide the funding, and responsible for achieving measurable results.

Quebecor Media suggested that its Videotron cable subsidiary would put \$109 million over three years into funding for Canadian production, as a replacement for its contributions to the CTF. This money would be managed by a board with three members named by Quebecor Media and two with the approval of the CRTC.

For its part, the CTF had some ideas on how to improve the Fund. It suggested that a second seat on the CTF's board be created for the Direct-to-Home providers. It also recommended the creation of a "funder's council" that would meet each time the Department of Canadian Heritage signs a Contribution Agreement with the CTF. This council would give the broadcast distribution undertakings a forum to provide input into the broad objectives of the CTF. In addition, the CTF recommended the establishment of a nominating organization to represent the interests of all broadcast distribution undertakings on its board.

On February 22, the Committee heard from the Chair of the Canadian Radio-television and Telecommunications Commission, Konrad Von Finkenstein. Mr. Von Finkenstein told the Committee that the CRTC would launch a Task Force to work with the parties to find a solution that will address the distributor's criticisms of the Fund while also serving the objectives of the *Broadcasting Act*. Mr. Von Finkenstein advised the Committee that the work of the Task Force would be conducted in private, so that, in his opinion, concerns can be raised by all stakeholders in a frank and open manner, and without fear of retribution. However, after the consultations and fact-finding are completed, the Task Force will make recommendations to the Commission about the CTF and produce a public report.

## **The Committee's Position**

This committee initially agreed to look at the crisis developing over the non-payment of CTF contributions. While this problem has been resolved in the short term with the resumption of payments by Shaw and Quebecor Media, the strength of the regulations governing the monthly payments to the fund remain deficient.

One of the issues that frequently led to confusion during the hearings was who was in charge of what with the CTF. Could the Minister order the BDUs to pay upon threat to pull their license? Could she order the CRTC to oblige them to pay? Would she commit the bridge financing to the fund? Is it her role/job to do so?

Through testimony it began to come clear that:

- the requirement for the BDUs to pay into the fund is set out and enforced by the CRTC, and is a part of their broadcast license agreement;
- the day to day operations and decision making of the fund is handled internally, as an arms length organization;
- and that the operation of the fund (including governance and outgoing allocation of the fund) was accountable to the Department of Heritage, and ultimately to the Minister of Heritage.

This issue was made less clear by the announcement that the CRTC was going to undertake a review of the structure and governance of the fund. According to the testimony we heard, this fell clearly outside of the CRTC jurisdiction over the CTF.

### **RECOMMENDATION 1**

**The actions taken by Shaw Communications Inc. and Quebecor Media to withhold their monthly payments to the Canadian Television Fund precipitated a crisis in the television industry and took unnecessary time and effort from all parties involved including, the CRTC, the industry, the Department of Canadian Heritage and this committee. The Standing Committee on Canadian Heritage strongly condemns the actions of Shaw Communications Inc. and Quebecor Media and urges the Minister to do the same.**

Even if not technically in violation of the *Regulation on CTF payments*, these actions did violate the spirit of the agreement, the circular that sets out the monthly



payment schedule, the conventions that existed since the creation of the fund, and it put the industry in a crisis that they knew with certainty would occur.

The Shaw assertions that the CTF wasn't performing to their standards was not verified or corroborated by any other witness before the Committee. The individual opinions of Shaw and Quebecor Media should also be taken with a certain caution, as they stand the most to gain, both financially and otherwise, by altering the fund in the way they have described. In addition, the contributions should not be understood as an act of generosity by these companies. Neither is the fund a "tax", as asserted by Mr. Shaw. The CTF contributions are an obligation of their operating licenses.

The actions of these two companies put the industry in a panic. International deals were put in jeopardy, the CRTC has been scrambling to find a solution, and the government and this Committee have been pulled away from other pressing business (like the CBC review) to put out this unnecessary fire.

## **RECOMMENDATION 2**

**The Standing Committee on Canadian Heritage supports the work of the Canadian Television Fund for reasons outlined by all witnesses appearing before the committee on this matter — with the exception of Shaw Communications Inc. and Quebecor Media including, but not limited to:**

- a) success in generating more than 23,000 hours of new Canadian television productions in English, French and aboriginal languages, which are crucial to the television industry and to the fostering of Canadian culture;**
- b) helping foster a Canadian television production industry that creates tens-of-thousands of jobs, both directly and indirectly, in the audio-visual industry and other spin-off industries;**
- c) leveraging additional investment in Canadian television production at a rate of \$2.00-\$3.30 for every Canadian Television Fund dollar allocated.**

Every witness that was interviewed by the Committee testified to the importance of the work done by the CTF. As in all bodies of this size and scope, there is room for improvement here, as acknowledged by the Chair of the CTF. But this committee heard no reason to believe the allegations of Shaw and Quebecor Media that the CTF is poorly structured or operated.

### **RECOMMENDATION 3**

**The Standing Committee on Canadian Heritage urges the CRTC to amend the *Broadcasting Distribution Regulations* to stipulate that broadcasting distribution undertakings must make monthly, rather than annual, contributions to the Canadian Television Fund.**

This Committee repeatedly heard that the CRTC had very little recourse to the actions taken by Shaw and Quebecor Media due to the unenforceable nature of the circular in which the monthly payments were prescribed. Moving the monthly payment provisions to the Regulations would allow for greater enforceability.

One of the main reasons that Shaw and Quebecor Media were able to withhold their payments in the recent crisis is that there was no chance of damage to their bottom line. If a substantial financial penalty were to be attached to any failure to meet the BDR conditions, any inclination to withhold their payment would be significantly reduced.

Virtually every witness testified to the destabilizing effect that this crisis had on the industry. By guaranteeing the CTF's monthly finances in the event of a reoccurrence of BDUs failing to contribute on time, the government would be acting as a stabilizer for the industry. This will eliminate the ability of the BDUs to hold the "sword of Damocles" over the entire television industry.

This Committee heard that the Canadian television industry is a "house of cards" that the CTF plays a key role in holding together. Even once monthly payments are set out in the Broadcasting Distribution Regulations, the major contributors to the fund would remain capable of withholding their payments for a significant period of time, while the CRTC and Minister decide how to proceed. This could potentially take months, if legal action is required. This provision will ensure that business remains as usual for the regular production cycle, the domestic and international production deals, and the bodies that govern the industry.

This type of action may never reoccur in the future; but by guaranteeing the CTF's month to month finances, the government can eliminate any incentive for the BDUs to even consider withholding their contributions, because the sole result will be that they ultimately have to pay more, and no crisis will develop to give them a platform like this to make unreasonable demands.

### **RECOMMENDATION 4**

**The Standing Committee on Canadian Heritage recommends that the Canadian Television Fund maintains the following provisions:**

**a) that a minimum of 5% of contributors gross revenues from broadcast operations go to Canadian programming;**

**b) that 80% of the required contribution must go to the Canadian Television Fund;**

**c) that the Canadian Television Fund must set aside the equivalent of 37% of its total revenues for programs destined for the CBC/SRC;**

**d) that the Canadian Television Fund allocates funds exclusively to independent producers.**

#### **RECOMMENDATION 5**

**The Standing Committee on Canadian Heritage recommends that the government move the annual contributions to the Canadian Television Fund to A-base, permanent funding as a step toward true stability to the fund.**

#### **RECOMMENDATION 6**

**The Standing Committee on Canadian Heritage finds that it is unusual that the CRTC would engage in closed door hearings on the future of the Canadian Television Fund. Nonetheless, as the CRTC mandate is limited to payment obligations, and as the Canadian Television Fund is under the mandate of the Heritage Ministry, we recommend that any CRTC findings be brought back for public hearings mandated through the Heritage Ministry.**

The Chair of the CRTC said quite clearly in a response to M. Kotto that the commission was only responsible for the payment of contributions into the fund. The fund is structured such that it is accountable to the Department of Heritage, not the CRTC, and as such, any hearings on the CTF's structure, governance or procedures should be conducted by the Department.



# LIST OF RECOMMENDATIONS

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## RECOMMENDATION 1

The Standing Committee on Canadian Heritage strongly condemns the actions taken by Shaw Communications Inc. and Quebecor Media to withhold their monthly payments to the Canadian Television Fund, which precipitated a crisis in the television industry and took unnecessary time and effort from all parties involved, including the industry, the CRTC, the Department of Heritage, the Canadian Television Fund, and this committee; and further that it urges the Minister of Heritage to do the same.

## RECOMMENDATION 2

The Standing Committee on Canadian Heritage supports the work of the Canadian Television Fund for reasons outlined by all witnesses appearing before the committee on this matter — with the exception of Shaw Communications Inc. and Quebecor Media — including, but not limited to:

- a) success in generating more than 23,000 hours of new Canadian television productions in English, French and aboriginal languages, which are crucial to the television industry and to the fostering of Canadian culture;
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## APPENDIX A LIST OF WITNESSES

| Organizations and Individuals  | Date       | Meeting |
|--|------------|---------|
| <b>Association des producteurs de films et de télévision du Québec</b><br>Vincent Leduc, Chair of the Board of Directors       | 2007/02/08 | 33      |
| <b>Association des producteurs de films et de télévision du Québec</b><br>Claire Samson, President and Chief Executive Officer | 2007/02/08 | 33      |
| <b>Canadian Film and Television Production Association</b><br>Guy Mayson, President and Chief Executive Officer                | 2007/02/08 | 33      |
| <b>Canadian Film and Television Production Association</b><br>Mario Mota, Senior Director,<br>Broadcast Relations and Research | 2007/02/08 | 33      |
| <b>Canadian Television Fund</b><br>Douglas Barrett, Chair of the Board   | 2007/02/08 | 33      |
| <b>Canadian Television Fund</b><br>Stéphane Cardin, Vice-President,<br>Strategic Planning and Stakeholder Relations            | 2007/02/08 | 33      |
| <b>Canadian Television Fund</b><br>Michel Carter, Member of the Board of Directors   | 2007/02/08 | 33      |
| <b>Canadian Television Fund</b><br>Kathy Corcoran, Director of Research  | 2007/02/08 | 33      |
| <b>Canadian Television Fund</b><br>Valerie Creighton, President  | 2007/02/08 | 33      |
| <b>Department of Canadian Heritage</b><br>Amanda Cliff, Director General,<br>Broadcasting Policy and Programs Branch           | 2007/02/13 | 34      |
| <b>Department of Canadian Heritage</b><br>Judith LaRocque, Deputy Minister   | 2007/02/13 | 34      |
| <b>Department of Canadian Heritage</b><br>Bev Oda, Minister of Canadian Heritage and Status of Women                           | 2007/02/13 | 34      |
| <b>S-Vox group of Channels</b><br>Brant Kostandoff, General Counsel  | 2007/02/13 | 34      |
| <b>Writers Guild of Canada</b><br>Kelly Lynne Ashton, Director,<br>Industrial and Policy Research                              | 2007/02/13 | 34      |

| <b>Organizations and Individuals</b>  | <b>Date</b> | <b>Meeting</b> |
|---|-------------|----------------|
| <b>Writers Guild of Canada</b><br>Maureen Parker, Executive Director  | 2007/02/13  | 34             |
| <b>Alliance for Children and Television</b><br>Steven DeNure, Vice-Chair  | 2007/02/15  | 35             |
| <b>Alliance for Children and Television</b><br>Caroline Fortier, Executive Director   | 2007/02/15  | 35             |
| <b>Alliance for Children and Television</b><br>Peter Moss, President  | 2007/02/15  | 35             |
| <b>Canadian Broadcasting Corporation</b><br>Sylvain Lafrance, Executive Vice-President,<br>French Services  | 2007/02/15  | 35             |
| <b>Canadian Broadcasting Corporation</b><br>Robert Rabinovitch, President and Chief Executive Officer and<br>Acting Chair of the Board of Directors | 2007/02/15  | 35             |
| <b>Canadian Broadcasting Corporation</b><br>Richard Stursberg, Executive Vice-President,<br>Television (English)                                    | 2007/02/15  | 35             |
| <b>Directors Guild of Canada</b><br>Pamela Brand, National Executive Director and Chief Executive<br>Officer  | 2007/02/15  | 35             |
| <b>Directors Guild of Canada</b><br>Monique Lafontaine, General Counsel and Director of<br>Regulatory Affairs                                       | 2007/02/15  | 35             |
| <b>Canadian Association of Broadcasters</b><br>Glenn O'Farrell, President and Chief Executive Officer   | 2007/02/20  | 36             |
| <b>Canadian Association of Broadcasters</b><br>Susan Wheeler, Vice-President,<br>Policy and Regulatory Affairs (Television)                         | 2007/02/20  | 36             |
| <b>Québecor Inc.</b><br>Luc Lavoie, Executive Vice-President,<br>Corporate Affairs  | 2007/02/20  | 36             |
| <b>Québecor Inc.</b><br>Pierre Karl Péladeau, President and Chief Executive Officer   | 2007/02/20  | 36             |
| <b>Shaw Communications Inc.</b><br>Jim Shaw, Chief Executive Officer  | 2007/02/20  | 36             |
| <b>Shaw Communications Inc.</b><br>Ken Stein, Senior Vice-President,<br>Corporate and Regulatory Affairs  | 2007/02/20  | 36             |



| <b>Organizations and Individuals</b>   | <b>Date</b> | <b>Meeting</b> |
|--|-------------|----------------|
| <b>Canadian Radio-television and Telecommunications Commission</b><br>Michel Arpin, Vice-Chair,<br>Broadcasting                          | 2007/02/22  | 37             |
| <b>Canadian Radio-television and Telecommunications Commission</b><br>Scott Hutton, Acting Associate Executive Director,<br>Broadcasting | 2007/02/22  | 37             |
| <b>Canadian Radio-television and Telecommunications Commission</b><br>Konrad W. von Finckenstein, Chair                                  | 2007/02/22  | 37             |



# REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the committee requests that the government table a comprehensive response to this report.

A copy of the relevant *Minutes of Proceedings* ([Meeting Nos. 33, 34, 35, 36, 37, 38 and 39](#) including this report) is tabled.

Respectfully submitted,

Gary Schellenberger, M.P.  
Chair



## ***Supplementary Opinion of the Bloc Québécois***

# **Barely Touches on the Basic Issue**

### **Background**

To begin, the Bloc Québécois would like to thank all the individuals and groups in Quebec and Canada who appeared before the Committee with respect to the Canadian Television Fund.

The Bloc Québécois reiterates its support for the Canadian Television Funds and readily recognizes its significant contribution to the development of television in Quebec. In our opinion, claiming that everything is fine is presumptuous. The fact that some cable distributors refuse to make their payments is not the problem but rather a symptom of a problem and points to the need for a more in-depth study of the operation and governance of the fund.

While the Bloc Québécois does not disagree with the present report, in our opinion it barely touches on the issue and its recommendations are not applicable.

### **Basic Issue**

Appearing before the Standing Committee on Heritage, the Minister of Heritage stated that *"I want to make it clear that this government recognizes that this is a critical time and a serious situation for Canadian television production."*<sup>1</sup>

She also noted that the CTF *"put forward some proposals for possible changes to the structure and approach of the CTF model. This recognizes that any model or approach can be improved or updated, but these changes require input from all interested and affected parties, and public comment. For its part, the government has demonstrated its leadership, its support for the production sector, and its recognition of the situation."*<sup>2</sup>

The Chief Executive Officer of Shaw Communications was entirely correct in suggesting that we *"disagree with the methods used to get attention,"* as he noted before the Committee on February 20, 2007. That being said, we are perplexed by his statement that *"the Canadian Radio-television and Telecommunications Commission and the government have expressed their desire to deal with this lack of performance of the CTF, and both have engaged in consultation with us and others in the industry."*

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<sup>1</sup> The Honourable Bev Oda, Minister of Canadian Heritage and the Status of Women, Meeting of the Heritage Committee, February 13, 2007.

<sup>2</sup> Idem.

In limiting itself to studying the crisis due to the delayed payments by Shaw and Vidéotron, the Bloc Québécois believes that the Committee has sidestepped a larger issue, which it should have examined before concluding that everything is fine.

The issue of convergence which means that some cable distributors are now also broadcasters, the issue of the multiplication of platforms and the role of the CBC should have received greater attention in the present study.

As a result, this report is limited to a specific issue and will quickly become obsolete. It will not have any lasting effect.

In our opinion, the recommendation that the CRTC impose fines on the companies in question is inapplicable as stated because the CRTC does not currently have the power to impose administrative monetary penalties. The CRTC can only proceed through legal action in this matter.

This is why the Bloc Québécois recommends that the *Broadcasting Act* be amended to give the CRTC the power to impose administrative monetary penalties on companies that do not fulfill their obligations to the Canadian Television Fund.

Finally, the Bloc Québécois considers the objectives of the present report to be worthwhile and supports them but also sees a need for a more comprehensive study of the Canadian Television Fund. In this regard, rather than appeal to the CRTC with respect to the operation of a committee examining the Fund, the Committee should in our opinion have been proactive and launched such a study, with the desired transparency and public participation.

## ***Supplementary Opinion of the Conservative Party of Canada***

The mandate of the CTF review was as follows:

“That, due to the ongoing uncertainty of the future of the Canadian Television Fund as precipitated by recent announcements from Shaw Communications and Vidéotron Limited that they will no longer live up to the terms of their licence by withholding contributions to the fund, this committee will investigate the impact of the CTF's potential elimination on the health of Canada's domestic television production and make recommendations to the House of Commons based on its findings.”

Clearly, the focus of the review was the threat by Shaw and Videotron to withdraw funding of the CTF and the impending threat to the existence of the CTF. We deplore the fact that the opposition parties have chosen an approach which will only serve to drive the parties further apart on the outstanding issues. In the period of time during which the hearings took place, it should be noted that threat was removed.

The hearings were conducted and the witnesses heard and were giving testimony on the basis of the mandate. It is unfortunate that the opposition, the Liberals and the NDP, chose to make gratuitous political comments because not only are they not reflective of the original mandate of the report but in fact do harm to the process.

The Charlie Angus Recommendations also pre-judge the work undertaken by the CRTC's Task Force on the CTF. This is essentially “putting the cart before the horse” and involves making recommendations in the absence of the facts which the Task Force is charged with providing.

Recommendation 1 – uses the word “condemns” to characterize the actions of Shaw and Videotron when all of the evidence before the committee showed that those two parties had stayed completely within the law. Although the CTF Report itself states that Shaw and Videotron “most certainly violated a well-established convention”, in fact that convention was previously unilaterally imposed on them by the CTF. During the hearings both parties agreed to reinstate their monthly payments and to return to the table in good faith.

Recommendation 2 – is not a recommendation at all. The Chair's ruling was that it was a “weak” recommendation. Furthermore, it fails to qualify as it does not in any way request action by any party. The effusive praise for the CTF in this recommendation suggests that, with minor exceptions, all is well with the CTF.

Such unbalanced commentary towards the concerns raised by Shaw and Videotron are certain to result in even greater uncertainty for the future of the CTF.

Recommendation 3 – Supported and already included in the original draft of the CTF Report.

Recommendation 4 - deferred. The existing regulations already address the issue of penalties for the breach of the BDU's licensing or regulatory requirements.

Recommendation 5 – deferred. The suggestion that “bridge financing” be provided to the CTF in the event of any future payment defaults by BDUs is unsound. Not only would bridge financing take pressure off the BDUs to comply, should the BDUs ultimately not make those payments, it is highly unlikely that the federal government would be willing to require repayment of those bridge loans. In other words, it becomes a permanent forward commitment by the Minister to fund the organization at historical levels and particularly bad management from the point of view of planning when the commitment is open-ended. The Minister has already committed \$200 million to the CTF over the next 2 years.

Recommendation 6 – Presupposes that there will be no major structural changes to the CTF. It simply restates the status quo, implying that real change and improvement is not an option. The CRTC Chair clearly stated in his testimony that his Task Force would examine all relevant aspects of the CTF in order to come to a resolution of the complaints raised by Shaw, Videotron and others.

Recommendation 7 – This attempt to move the CTF to A-base permanent funding is something the previous Liberal government was never prepared to do itself and is simply an attempt by the opposition parties to “tie the hands” of the Minister. The Minister has clearly demonstrated her commitment to a strong Canadian independent production industry by committing \$200 million to the CTF over the next 2 years.

Recommendation 8 – It is not at all uncommon for a Task Force to conduct its investigations in private. Indeed, a Task Force is not, by nature or definition, a “public hearing” but is a process whereby a person or persons embark on a fact-finding mission. The CRTC Chair clearly outlined his reasons for preserving the confidentiality of some of his work i.e. industry are asked to share with him information which is often of a sensitive or proprietary nature. Further, in order to obtain a true picture of the difficulties and challenges facing the broadcasting and production industry, it is essential that those who share information with him can do so without jeopardizing their careers, their business prospects or their working relationships with others in the industry.



## **Conclusion**

There was a strong consensus among the witnesses that the Minister's announcement of a 2 year commitment of \$200 million to the CTF was a resounding endorsement and vote of confidence in the independent production industry. Witnesses complimented the Minister for her role in meeting with the various parties and working to bring Shaw and Videotron back to the table.

The recommendations sends the clear message that the committee is really not willing to listen to the concerns of the industry or make real changes to the CTF. The evidence before the committee made it clear that concerns about the CTF had been raised over a period of at least 5 years with little action on the part of the CTF.

We recognize the importance of having an honest and frank dialogue with the various stakeholders and understand the need for some measure of discretion in soliciting information. Finally, the government Member's strongly support the CRTC's willingness to investigate the concerns of the broadcasters. This positive action ensured the continued financial support of the BDU's and will hopefully shed light on the concerns raised. We support making the Report of the Task Force public and engaging in a public process over the facts, issues and possible recommendations which will be raised in the Report in order to ensure a strong and viable Canadian broadcasting and production industry.



## MINUTES OF PROCEEDINGS

Meeting No. 39  
Thursday, March 1, 2007

The Standing Committee on Canadian Heritage met at 9:02 a.m. this day, in Room 308, West Block, the Chair, Gary Schellenberger, presiding.

*Members of the Committee present:* Jim Abbott, Charlie Angus, Diane Bourgeois, Ed Fast, Hon. Hedy Fry, Tina Keeper, Maka Kotto, Gary Schellenberger, Hon. Andy Scott and Chris Warkentin.

*Acting Members present:* Paul Crête for Diane Bourgeois, Paul Steckle for Francis Scarpaleggia and Paul Szabo for Hon. Hedy Fry.

*In attendance: Library of Parliament:* Marion Ménard, Analyst; Matthew Carnaghan, Analyst; Marlisa Tiedemann, Analyst.

Pursuant to Standing Order 108(2), the Committee resumed its study of the Future of the Canadian Television Fund

The Committee resumed consideration of a draft report.

It was agreed, — That recommendations 4 and 5 be deleted.

Charlie Angus moved, — That the draft report, as amended, be adopted and the Chair present it to the House.

The question was put on the motion and it was agreed to, by a show of hands: YEAS: 7; NAYS: 1.

On motion of Jim Abbott, it was agreed, — That the Committee append to its report a dissenting opinions from the Conservative Party of Canada and the Bloc québécois provided that it be no more than 2 pages in length and submitted electronically to the Clerk of the Committee, no later than 4:00 p.m., on March 12, 2007.

On motion of Charlie Angus, it was agreed, — That, pursuant to Standing Order 109, the Committee request that the Government table a comprehensive response to the report.

It was agreed, — That the Chair, Clerk and analyst be authorized to make such grammatical and editorial changes as may be necessary without changing the substance of the report.

At 11:12 a.m., the Committee adjourned to the call of the Chair.

Jacques Lahaie  
Clerk of the Committee

