



CFTPA
*Representing television, film
and interactive production in Canada*

ACPFT
*Porte-parole de l'industrie de la production
cinématographique, télévisuelle et interactive au Canada*

January 25, 2007

Sent by Email

Michel Arpin
Acting Chairperson
Canadian Radio-television and Telecommunications Commission
Ottawa, Ontario
K1A 0N2

Dear Mr. Arpin:

The purpose of this letter is to express the Canadian Film and Television Production Association's (CFTPA) serious concerns with respect to Shaw Communications Inc. and Vidéotron Itée's threat to withhold required payments to the Canadian Television Fund (CTF).

The CFTPA represents the interests of almost 400 companies engaged in the production and distribution of English-language television programs, feature films, and interactive media products in all regions of Canada. Our member companies are significant employers of Canadian creative talent and assume the financial and creative risk of developing original content for Canadian and international audiences. In terms of the Canadian broadcasting system, it is independent producers who create the drama, documentary, children's, and performance programs that are important domestic components of the offerings of Canadian conventional and specialty television services.

As the Commission is no doubt aware, in a letter to the CTF Chair dated December 20, 2006, Jim Shaw, Chief Executive Officer of Shaw Communications, expressed his "dissatisfaction with the performance, operations and governance" of the Fund, and stated that without specific actions being taken concerning the structure and governance of the CTF, Shaw would no longer support the Fund with financial contributions. The letter also stated that Mr. Alex Park, Vice-President of Programming for Shaw Cablesystems and a CTF board member since 2001, would be resigning from the CTF board effective the date of the letter.

Meanwhile, in a letter to the CTF Chair dated January 23, 2007, Pierre Karl Péladeau, President and Chief Executive Officer of Quebecor Inc., expressed his "deep dissatisfaction with the Fund's governance, performance and direction", and stated that Vidéotron is suspending its monthly payments to the CTF effective immediately. He also asked the Minister of Canadian Heritage "to launch a thorough review of the Fund's management and membership structures". In a separate letter to the CTF Chair dated January 23, 2007 from Pierre Lampron, Quebecor Media Inc.'s Vice-President of Institutional Relations, Mr. Lampron resigned from the CTF board.

In the CFTPA's view, Shaw and Vidéotron's actions are unacceptable and irresponsible and, if allowed to continue, would set a dangerous precedent that would have long-term repercussions not only with respect to the future viability of the CTF but also with respect to the integrity of the Commission's licensing and regulatory authority.

If left unchallenged, Shaw and Vidéotron's threats to stop their required contributions to the CTF will have a devastating impact on the CTF, on Canadian television production, and on the independent production and creative sectors, resulting in the loss of thousands of jobs. Each of these elements is central to the government's cultural policy objectives and the Canadian content obligations of broadcasters pursuant to the *Broadcasting Act*.

Section 29 and Section 44 of the *Broadcasting Distribution Regulations* require medium and large cable distribution undertakings and direct-to-home satellite TV distribution undertakings (hereinafter "BDUs") to contribute a fixed percentage of their gross annual revenues derived from broadcasting services to the CTF. Further, *CRTC Circular No. 426* sets out the guideline that these BDUs make their payments on a monthly basis.

The CRTC has stated on numerous occasions that such financial contributions to production funds provide essential support for the production of Canadian programming:

"Such support is necessary if Canadian programming is to continue to have a strong presence in a more competitive broadcasting environment. The Commission considers that subscribers will benefit from higher quality and more diverse Canadian programming on the services offered by distribution undertakings as a result of these contributions. It therefore wants to ensure that production funds receive broad support from the distribution sector."¹

The Commission has also considered it important that funding not be diverted from the Canadian Television Fund.²

The CTF is an essential component of the Canadian broadcasting system. Since its inception in 1996, the CTF has provided \$2.22 billion in funding support to 4,470 independently produced Canadian English- and French-language productions in the genres of drama, children's and youth, documentary, and variety and performing arts. The financial contribution from this unique public-private partnership has helped create 23,141 hours of great Canadian television, triggering total production budgets of \$7.4 billion.

The CTF has made possible many highly successful Canadian programs, such as *Shania: A Life in Eight Albums*, *Running on a Dream: The Terry Fox Story*, *Life with Derek*, *Degrassi: The Next Generation*, *Trailer Park Boys*, and *Little Mosque on the Prairie*. These and many other CTF-supported programs are watched and loved by millions of Canadians. Put simply, without the CTF Canadian independent producers could not afford to make these programs because the Canadian market is too small to finance the high cost of these shows. Further, Canadian broadcasters would not have been able to exhibit the amount of high-quality, distinctively Canadian television programming that they have presented over the past decade without the Fund.

The CFTPA has two representatives on the CTF board. Over the years, our representatives have been vocal in expressing the views of the independent production sector on the Fund's workings. The CFTPA considers the CTF to be the single most important initiative supporting distinctive Canadian television production and we remain committed to the Fund and its overall objectives.

In our view, the CTF's comprehensive Board composition, including representatives from the broadcast distribution sector since the Fund's inception, has allowed it to be responsive to all industry stakeholders. In this regard, we point out that sound

¹ *Decision CRTC 2000-169*, May 17, 2000, paragraph 13.

² *Broadcasting Decision CRTC 2004-129*, paragraph 15.

governance of the CTF was recently noted by both the Auditor General of Canada (October 2005) and more recently confirmed by an independent review by Renaud Foster of Ottawa (June 2006).

Given all of the above, the CFTPA respectfully asks that the Commission immediately put Shaw and Vidéotron on notice that their threat to discontinue supporting the CTF financially would put their cable distribution undertakings (Shaw Cable and Vidéotron) and Shaw's DTH satellite TV undertaking (Star Choice) in contravention of the *Broadcasting Distribution Regulations*. Should Shaw and Vidéotron not make their contributions on a monthly basis, we believe that they would be violating, at minimum, the spirit of CRTC *Circular No. 426*. We urge the CRTC to take whatever steps are necessary to ensure that Shaw and Vidéotron comply with the regulations and the circular.

We would be pleased to discuss our concerns with you, at your convenience.

Sincerely,



Guy Mayson
President and CEO

c.c.: The Right Honourable Stephen Harper, Prime Minister of Canada
The Honourable Bev Oda, Minister of Canadian Heritage
The Honourable James M. Flaherty, Minister of Finance
The Honourable Vic Toews, President of the Treasury Board
Members of the House of Commons Standing Committee on Canadian Heritage
Judith A. LaRocque, Deputy Minister, Canadian Heritage
Jean-Pierre Blais, Assistant Deputy Minister – Cultural Affairs, Canadian Heritage
CRTC Commissioners
Douglas Barrett, Chair, Canadian Television Fund
Valerie Creighton, President, Canadian Television Fund
Jim Shaw, Chief Executive Officer, Shaw Communications Inc.
Pierre Karl Péladeau, President and Chief Executive Officer, Quebecor Inc.
CFTPA Board
Members of the Canadian Film and Television Industry Council (CFTIC)
Glenn O'Farrell, President and CEO, Canadian Association of Broadcasters