
ENGLISH-LANGUAGE **ARTS** NETWORK

Notes for a Speech from ELAN to the CRTC
at Hearing 2009-411
November 27, 2009

Chairman von Finckenstein and members of the panel, I want to thank you for giving ELAN an opportunity to speak at this important hearing.

My name is Guy Rodgers, and I am the Executive Director of ELAN. Sitting to my left is Kirwan Cox who is a consultant to ELAN.

The English Language Arts Network represents English-speaking cultural workers in Quebec. One part of our membership is drawn from the film and television industry. To define positions we work with independent producers as well as the Directors Guild of Canada (DGC) and ACTRA who have jointly sent a letter that they asked to be attached to our appearance today. In addition, ELAN consults with consumers from Quebec's English-speaking community via the Quebec Community Groups Network and its member associations located in many regions of Quebec. We will focus our comments on the concerns of one of Canada's official language minority communities.

We have no problem with the quantity of programming available. If our only need was for English-language content, we wouldn't be here today. Our concern is about quality. Not quality of production values or creative storytelling. The quality lacking is storytelling that reflects "local expression" and "regional reflection." That is especially true for the 200,000 Anglophones who live in small communities far from Montreal.

Local Programming Improvement Fund

The new Local Programming Improvement Fund is a splendid initiative. The LPIF could provide new production funding for minority language communities if official language program envelopes were placed inside relevant production funding obligations that the CRTC has authorized such as the Canada Media Fund, other BDU supported independent funds, and community channels.

As currently designed, the LPIF cannot be used to support English-language programming in Quebec. None. It came as a surprise to us to learn we are not in fact a minority in Montreal, despite contrary information from the Commissioner of Official Languages and Statistics Canada. Why? The CRTC defines Anglophones in Montreal as anyone with a “knowledge” of English. It is true that many people in Montreal have a knowledge of English. It is also true that many people in Stockholm have a knowledge of English. And Istanbul. Using the CRTC's definition, there is no English-language minority in Montreal. Or Stockholm. Or Istanbul.

Where did this definition come from? What does it mean? The only reason to consider knowledge of English or French is the Official Languages Act which uses definitions such as 'first official language spoken' or 'official language usually spoken.'" The purpose of the definition is to determine which citizens receive minority language services. The CRTC's “knowledge of English” definition to establish eligibility to the LPIF appears deliberately designed to exclude Montreal's Anglophone population from minority consideration by rigging the count.

We request that the CRTC change its definition to harmonize with definitions currently in use by Treasury Board, Statistics Canada, the Department of Canadian Heritage and the Official Languages Act.

Our broadcast industry colleagues at DGC and ACTRA have suggested that the LPIF continue to be funded at 1.5% of BDU revenues or higher if it is to serve additional purposes. For that reason, LPIF should not be used to support “freesat” at the current level of funding. Our colleagues have also stated that in English-Quebec, LPIF should be open to 75% production by independent producers in all genres, and 25% local broadcast news. Including independent producers and non-news genres, LPIF would increase the diversity of programming funded, and help extend the reach of the production fund to OLMCs outside Montreal.

In our written brief we suggested that OLMC envelopes should be in the range of 10-20% of total production funding, but a more detailed calculation would depend on the design of the particular fund.

We can debate the administrative details but there is no debating that the LPIF, in its current form, is defined to exclude the English-language minority in Quebec. Unless this is the CRTC's deliberate design, the definition must be changed.

Now, for the public record, we would like to comment on some other issues raised by your public notice.

The 1:1 ratio.

We have heard arguments at this hearing on the question of market manipulation of demand versus supply. Perhaps we should recall that the Broadcasting Act was enacted to manipulate the market in favour of the public interest (as defined by Parliament in 1992). It is your difficult task to be sure that market forces and their beneficiaries are not the only ones making decisions about the use of the public's airwaves.

Practically speaking, the broadcasting system in Canada requires a balance between measures encouraging demand and supply. In the English-language system, there is constant outside pressure and we need to be particularly careful of unintended consequences.

When the CRTC eliminated minimum expenditure rules for OTA broadcasters in its 1999 TV policy, it disrupted the production system. The unintended consequence of this decision saw English off-air broadcaster spending on Cancon decline from about 53% of total program dollars to roughly 37% today. At this rate, they will soon be spending only one third of their total program budget on Canadian programming, and we do not believe this imbalance in program expenditure is consistent with the objectives of the Broadcasting Act..

As we have said previously, we estimate that this decline has meant a loss of \$800 million in Canadian license fees over the last decade representing about \$3.4 billion in lost Canadian program budgets. That is over \$500 million in lost production within Quebec. In fact, we have actually seen CAVCO certified English-Quebec production fall by 40% during this decade.

Nothing you could do would have a bigger impact on the Canadian program expenditures of OTA broadcasters than requiring they spend one dollar on Cancon for every dollar they spend south of the border. This would also help these broadcasters survive their budgetary problems.

The 1:1 ratio or similar minimum spending requirement would increase the profit these broadcasters derive from foreign programs by capping their cost. This would help the private broadcasters balance their books just as the salary cap on hockey players helps the NHL team owners survive their self-destructive tendency to over-pay top talent.

Simultaneous Substitution

The “simultaneous substitution” rule provides broadcasters with a benefit calculated at about \$200 million in ad revenues. Unfortunately, “simulcasting” also pushes Cancon to the fringes of peak viewing time on private English-language networks, and that reduces audiences for Canadian programs.

For example, 80% of the top-rated programs on CTV and Global during the week of November 9 to 15 were scheduled at 8pm or 9pm. These were all simulcast American programs such as CSI, House, Grey’s Anatomy, Survivor and so on. Their audiences ranged from 2.4 million to 3.4 million.

The Canadian programs on CTV or Global cannot access the peak viewing audience because of simulcasting. Flashpoint is the highest rated Canadian drama with an audience of 1.8 million on Friday at 10pm. What audience would it reach on another night in peak viewing time? We’ll never know because those time slots on Canadian network schedules are, practically speaking, reserved for American programs.

We know the BDUs say they can’t do “non-simultaneous substitution”, but this is a serious problem that needs a better solution.

CBC

CBC, like the Trans-Canada Highway, becomes increasingly important the further you travel from the major population centres. In many remote areas, CBC and the Trans-Canada Highway are literally the lifeline. Some regions are so remote they have only CBC.

That is especially true for official language minority communities. The CBC regional station in Quebec is no longer a significant source of English-language independent programming, yet the CBC is more widely available to OLMCs across the province than any other broadcaster.

if CBC cannot or will not serve OLMCs, who will? This is another serious problem that needs a better solution. In the meantime, the CBC needs to be included along with the private broadcasters in any measures that would provide additional program funding to private OTA broadcasters.

Conclusion

The Canadian television industry is in upheaval. The model is broken. If we are to retain a regulated system, rather than permit broadcasting to become a free-for-all, we need to remember that regulations are intended to provide quality programming for Canadians, and to promote Canadian content. And regulations are intended to provide equitable access to all Canadians, including minority language communities, and even to the most remote communities for whom broadcasting is not entertainment but a lifeline to vital information.

Thank you,

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